Memoranda submitted to the Indian Statutory Commission by the Government of India

Volume IV

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SHORT SKETCH OF THE EXISTING REFORMED CONSTITUTION.

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Short Sketch of the Existing Reformed Constitution.

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Short Sketch of the Existing Reformed Constitution.

The cardinal facts of the Reforms; individuality of legislatures and devolution

1. The cardinal facts of the Reforms of 1919 were, first, the recognition of all legislative bodies as distinct from the executive, and, second, the devolution of authority to provincial Governments. The dominant conception of the constitution which then came under revision was that the entire government system is one indivisible whole and amenable to Parliament. The rigour of a logical

application of that conception to administrative practice had gradually been mitigated by wide delegation of powers and by customary abstentions from interference with the agents of administration. But the principle of the conception was still living and operative, and it blocked effectively any substantial advance towards the development of self-governing institutions. In the first place, the legislative councils were in theory only an enlargement of the executive government for the purposes of law-making. The members of the Legislative Councils, other than members of the executive Government, whether nominated or elected, were styled additional members. Legislative power was not recognised as residing in a legislature as distinct from the Government. Again, the provincial Governments, in whose hands lay the day to day task of administration in provinces, possessed no powers derived from a position of independence. By law all the powers exercised by the East India Company, the Court of Directors and the Board of Proprietors were vested in the Secretary of State, who also possessed all-embracing powers of superintendence, direction and control over the governments in India. The government of the country was one, and local Governments were virtually in the position of agents of the Government of India, to which the whole civil and military administration of the country was committed by the Act of 1833. Lastly, neither the provinces nor the Government of India had any inherent legal right to the revenues which they raised. By law all the revenues of India vested in the Crown. Under the *quasi*-permanent financial settlements made between the central and provincial Governments an undoubted advance upon the earlier centralised system had been made, but no more than a half-way stage had been reached, because the provincial settlements, being based not on provincial revenues but on provincial needs, rendered the central control over provincial expenditure not merely justifiable but inevitable. Provincial expenditure, provincial taxation and provincial borrowing were all subject to central control, and a mass of regulations in the shape of Codes of Instructions imposed irksome restraints on the spending powers of local Governments.

of authority to provinces.

Sections 63 (1) and 73 (1) of Govt. of India Act, 1915.

Section 2 of the Govt. of India Act.

Para. 47 of the Report on Indian Constitutional Reforms and Section 39 of the Charter Act of 1883.

2. It was these features of the constitution which drove the authors of the Report on Indian Constitutional Reforms to the conclusion that no further progress on the old lines of delegation and of abstention was possible. They were charged by the announcement of August 1917 with the duty of devising substantial steps in the direction of the gradual development of self-governing institutions, and they found their path blocked by the barriers of the existing constitution which gradual decentralization had only partially lowered. Accordingly, they set before themselves the task of demolition. "We have" they said "to demolish the existing structure at least in part before we can build anew. Our business is one of devolution, of drawing a line of demarcation, of cutting long-standing ties. The Government of India must give and the provinces must receive: for only so can the growing organism of self-government draw air into its lungs and live." But, like good master-builders, they drew their plans carefully before

The fundamental formulæ.

Para. 120 of the Report on Indian Constitutional Reforms.

setting their hands to the work. The plans they described as formulæ, and these formulæ are so important for the understanding of the present constitution that they must be given in the language of the authors. They are as follows:—

Paras, 188-191 of the Reports.

1. There should be, as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control.
2. The provinces are the domain in which the earlier steps towards the progressive realisation of responsible government should be taken. Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit. This involves at once giving the provinces the largest measure of independence, legislative, administrative, and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities.
3. The Government of India must remain wholly responsible to Parliament and saving such responsibility, its authority in essential matters must remain indisputable, pending experience of the effect of the changes now to be introduced in the provinces. In the meantime the Indian Legislative Council should be enlarged and made more representative and its opportunities of influencing Government increased.
4. In proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and provincial Governments must be relaxed.

The intentions of the authors were not in all details carried out by Parliament or under its authority, but these formulæ are still the framework to which the constitution owes its shape, and round them any description of it must arrange itself. They indicate at once that it is the domain of the provinces in which the most substantial steps prescribed by the announcement of 1917 have been taken, and it is from the provinces that an account of the constitution must begin.

Provincial Constitutions.

Devolution to provinces.

3. What the reforms effected in provinces or elsewhere cannot be discovered merely by a perusal of the Act of 1919. A reader of that Act, who found therein the twin pillars of the old constitution —the succession of the Secretary of State to all the powers of the Board of Directors and the Court of Proprietors, and the vesting of all Indian revenues in the Crown—maintained intact, might come to the conclusion that the constitution remains as severely central as before, the more so if he failed to notice that the Act now contains words making the control of the Governor General in Council subject to rules. But further study would convince him that the Act was important not only for what it did directly in giving the legislative councils a new position and wider authority but also in

Section 33 of the Govt. of India Act.

the power which it conferred to make statutory rules securing very considerable advances towards responsible self-government. He will, therefore, look for a true picture of the new constitution rather in the statutory rules than in the Act itself. The most radical of these powers which have been taken by the Act are the powers to devolve administrative, financial and legislative authority upon local Governments and legislatures. Administrative devolution is effected through the same classification of subjects for the purpose to the care of the local Governments. Legislative devolution is effected through the same classification of subjects for the purpose of distinguishing the subjects over which the local Legislative Councils will exercise those functions which have been conferred upon them by the Act itself. Financial devolution is effected by allocating revenues or other moneys to local Governments for the administration of subjects classified as provincial. These acts of devolution have the effect of giving local Governments and Legislative Councils a degree of independence and of inherent power in the provincial sphere. But three remarks on their effect remain to be made. First, they do not give to local Governments any juristic existence. The only body corporate is still the Secretary of State in Council, and all suits by or against Government must be brought by or against the Secretary of State in Council.

Sections 45-A and 80-A of the Govt. of India Act.

Section 32 of the Act.

Second, they do not obscure the ultimate reservoir of sovereignty. Provincial Governments have authority over only those subjects which have been specifically classified as provincial. Over subjects which have been classified as central they have no innate authority, and all subjects which have escaped classification as either provincial or central are the concern of the central Government alone. The residuum of power is with the Government of India and not with the provincial Governments, until provision otherwise is made by rule.

Rule 13 of the Devolution Rules.

Item 47 of Part I of Schedule I to the Devolution Rules.

And, third, they do not by themselves introduce into provincial Governments any degree of responsible government. They do not set up the most important characteristic feature of provincial Government, namely, the system which is known as dyarchy. In order to take that final step and thus to give effect to the second formula of the Authors of the Report a further and most important power has been taken in the Act, namely, the power to make provision by rules for the classification from among provincial subjects of subjects to be called "Transferred subjects", that is, subjects whose administration is transferred to members of Government holding office subject to removal in pursuance of a hostile vote of the Legislative Council amounting to an expression of no confidence. The provincial subjects known as "reserved subjects" are left to be administered by members of Government irremovable at the pleasure of the Legislative Council.

Clause (*d*) of Section 45-A (1) of the Act.

These four powers have been employed in the nine major provinces, and it is there that reformed constitutions have been set up.

Where there is no classification of subjects, no allocation of revenues and no division of provincial subjects, there is no devolution and, therefore, no reformed constitution. The position is essentially the same as it was before the passing of the Act of 1919. What these areas are and how they are administered will be described when the Government of India itself is described. At present, this note is concerned with the reformed constitutions in the nine major provinces.

The provincial field.

4. The differences in the constitutional arrangements from province to province are inconsiderable and need not affect the picture. In the demarcation of the provincial field there is uniformity; in its internal division variations are few. The objects which the Act set before itself in providing for the classification of central and provincial subjects were "the purpose of distinguishing the functions of local Governments and local legislatures from the functions of the Governor General in Council and the Indian Legislature." The implied aim in providing for "the allocation of revenues or other moneys" to local Government was the determination of limits within which provincial finance would be independent. Financial devolution the Authors of the Report on Indian Constitutional Reforms considered to be fundamental. "Our first aim" they said "has been to find some means of entirely separating the resources of the central and provincial Governments." The provincial field may, therefore, be considered as a field of legislation, administration and finance.

Section 45-A of the Act.

Para. 200 of the Report on Indian Constitutional Reforms.

(*a*) The provincial field of legislation.

The provincial field for purposes of legislation has been demarcated in a manner somewhat different from that adopted to determine the fields of administration and finance. The method is that of restriction rather than devolution. In theory, with certain savings, the Indian legislature as regards British India, and each of the provincial Legislative Councils as regards its own province, have concurrent jurisdiction over the whole legislative field. The local legislative council of any province has power to make laws for the peace and good government of the territories for the time being constituting that province. But, in regard to subjects outside the provincial field of administration, the Act itself places under control the Council's powers to legislate, and even with regard to subjects within that field the statutory devolution rules introduce other restrictions. What that control and what these restrictions are will be explained when the local legislative councils and their powers come to be discussed. It suffices here to say that the effect of classification for the purposes of legislation is to set up spheres which are not mutually exclusive. The invasion of the provincial field of legislation by the central legislature is restrained by the necessity for obtaining the previous sanction of the Governor General.

Section 65 and 80-A of the Act.

Section 67 (2).

(*b*) The provincial field of administration.

Para. 11of

The principle of discrimination between central and provincial subjects of administration is that where extra-provincial interests predominate the subject is treated as central while, on the other hand, all subjects in which the interests of the province essentially

predominate are provincial. Accordingly, military matters; foreign affairs; tariffs and customs; railways; posts and telegraphs; the income-tax; currency; coinage and the public debt; commerce and shipping; the civil and criminal law; and a number of smaller subjects of which the administration cannot be conveniently localised are retained under the administration of the Central Government. Every other ordinary duty of a Government is within the provincial ambit. The audit of provincial expenditure, however, has been retained in the central field as also the task of keeping the provincial accounts. Separate lists of central and provincial subjects have indeed been framed, but any matter not definitely specified as a provincial subject is treated as a central subject, and discretion has been retained with the Governor General in Council to declare as provincial any matter which, though falling within a central subject, is of a merely local or private nature within the province. The more important matters in which authority has been devolved on provincial Governments are local self-government; medical administration and public health; education; public works and irrigation; land revenue administration; famine relief; agriculture; forests; excise; administration of justice; industrial matters and the development of industries; police and jails; and minor ports. The discrimination between central and provincial subjects is not subject to test in the courts. Any doubts which may arise are settled by the decision of the Governor General in Council and his decision is final. For that reason and because over reserved provincial subjects the Government of India exercise a general control, without any restriction of the purposes for which that control may be exercised, the limitation of provincial subjects by precise definition is not essential.

the Functions Committee's report.

Part I of Schedule I to the Devolution Rules.

Item 15 of Part I of Schedule I to the Devolution Rules.

Item 46 of Part I of Schedule I to the Devolution Rules.

Item 51 of Part II of Schedule I to the Devolution Rules.

Devolution Rule 4.

Para. 24 of the Functions Committee's report.

It is otherwise in the case of the discrimination of provincial transferred and provincial reserved subjects, for there the spheres of responsibility to the local council and to Parliament are distinguished. This classification has, therefore, been made with exactness, on the principle that those departments which afford most opportunity for local knowledge and social service, those in which Indians have shown themselves to be keenly interested, those in which mistakes which may occur though serious would not be irremediable, and those which stand most in need of development should be included in the transferred list. Doubts as to whether any matter relates to a reserved or a transferred subject are settled by the decision of the Governor, and his decision is final. Accordingly local self-government, medical administration, public health and sanitation, education, public works other than railways and canals, agriculture, excise and various smaller matters lie in the transferred field in all provinces. But in Assam public works remain reserved, while in Burma and Bombay forests form a transferred subject. In all provinces the security subjects such as the administration of justice, police and jails, and the important subjects of land revenue and irrigation are reserved subjects.

Para. 238 of the report on Indian Constitutional Reforms.

Devolution Rule 7.

Schedule II to the Devolution Rules.

(c) The provincial field of finance. Devolution Rule 15.

The basis of financial devolution to provinces is the statutory allocation to them of all receipts accruing in respect of subjects classified as provincial. To these receipts fall to be added smaller sums such as a share in the growth of central revenue derived from income-tax collected in the province, and payments made by the central or other local Governments either for services rendered or otherwise. For the reinforcement of these receipts local Governments have wide powers of taxation and borrowing. But both powers are subject to statutory restriction. All legislation giving effect to financial proposals requires the previous sanction of the Governor (s. 80-C.). A provincial Legislative Council may of its own authority impose taxation on land put to uses other than agricultural, on succession, on betting or gambling, on advertisements, on any specified luxury, and may levy registration fees and certain stamp duties. Taxation of other kinds can be imposed by the legislature only with the previous sanction of the Governor General. The provincial executive, however, have a further authority to expand provincial resources, for in some provinces the assessment of land revenue and water rates and the fixing of rates of duty on liquors and intoxicating drugs are left to executive action. Provincial borrowing requires the sanction of higher authority. If the loan is to be raised in India the sanction of the Governor General in Council must be obtained. For recourse to money markets outside India the sanction of the Secretary of State in Council is required. In either case loans may be raised only for the purpose of meeting capital expenditure on projects of lasting public utility, for famine relief or for purposes connected with previous loans and advances. Borrowing for revenue purposes other than for the repayment of advances is not permitted. Such advances can be made and in fact have been made for the purpose of meeting temporary revenue deficits. All money borrowed is raised by the local Government in the name and on behalf of the Secretary of State in Council, but though the primary security is the revenues allocated to the provincial Government, the whole of the revenues of India are in fact pledged in existing circumstances alike for Central Government loans and for loans raised by provincial Governments. As a corollary to the receipt of allocated revenues local Governments have assumed responsibility for capital expenditure incurred by the Government of India on irrigation works in the provinces. The capital sums so expended are treated as advances made to the local Governments from the revenues of India and they carry interest at fixed rates. Moneys derived by the provinces from these sources are paid into the public account of which the Governor General in Council is the custodian and are credited to the Government of the province. Resource is thus a central subject, but the provinces have a very free hand in the expenditure of their funds. The first charge on the provincial revenues is the fixed provincial contribution* payable to the Governor General in Council as part of the arrangement for the allocation of sources of revenue to provinces.

Section 80-A (3a) and Scheduled Taxes Rules.

Section 80-A (3) (a) and (b) of the Act.

Local Government (Borrowing) (Rules).

Section 30 (a) of the Act.

Devolution Rule 24.

Devolution Rule 16.

Devolution Rule 20.

Devolution Rule 26.

* NOTE.—These contributions have in recent years been remitted.

Other priority charges are interest due on advances and payments in connection with the service of loans. Provinces are also required to maintain by fixed annual payments out of revenue a famine insurance fund. But when these obligations have been met the province is free to proceed with its programme of expenditure for provincial purposes. The Governor General in Council retains a power to require a local Government, if necessary, so to regulate its programme of expenditure as not to reduce the balance at its credit below a stated figure; but subject to this power local Governments are at liberty to draw on their balances, provided that due notice of withdrawal is given to the Governor General in Council. The annual programme of appropriations no longer requires to be referred to any authority outside the province. A few restrictions on the extent to which provincial Governments may incur expenditure on particular subjects remain. These restrictions confer a certain amount of control over provincial expenditure on the Secretary of State in Council, but no powers of independent control are now exercised by the Governor General in Council. Limitations of this nature relating to transferred subjects are confined to the protection of All-India services the members of which have been appointed by the Secretary of State in Council, the creation of posts carrying certain high rates of pay, and similar matters. Those relating to reserved subjects are wider, and included also capital expenditure on large schemes for public works, certain wholesale revisions of permanent establishments and charges on account of the Governor. In the result the local Government has power, subject to few restrictions, to apply to provincial needs, as it and its Legislative Council think fit, the balance of its resources left when prior charges have been met.

Schedule IV, Devolution Rules.

Devolution Rule 21.

Reserved Provincial Subjects. Audit Resolution and Devolution Rule 27. Schedule III to the Devolution Rules.

A small addition falls here to be made to the provincial field of administration. Certain central subjects for which the Central Government must remain ultimately responsible may be nevertheless in practice administered by provincial Governments. The Central Government, whether for lack of a local executive or otherwise, may not be able conveniently to exercise direct administration of these subjects particularly in remote parts of India, and the arrangement made in such cases is that the Central Government employs the agency of the reserved side of the provincial Government in administering in whole or in part the central subjects. The field of inherent provincial authority is not widened, and no authority is conferred on the provincial council.

(*d*) The provincial field of agency. Devolution Rules 46-49.

Some subtraction must also be made from the transferred field and the field of legislation. There are in several provinces certain areas where the people are primitive or there is as yet no material on which to found political institutions. These areas are known as " backward tracts ". They share in the reformed constitution of the province subject to certain subtractions from it which vary from tract to tract. To all the classification of subjects as central and provincial is applicable, so that the local Government has in them also independent powers of administration, and their revenues

Backward Tracts.

Para. 199 of the report on Indian Constitutional Re-

forms and Notifications declaring "Backward Tracts" in different provinces.

are also allocated. But in the majority of them no subjects have been transferred to the popular side of the Government, and in all of them the powers of the Council, whether legislative, deliberative, or financial, have been limited or placed under control.

Superintendence, direction and control.

5. The devolution just described is the measure of the success attained in achieving the first aim which the Authors of the report on Indian Constitutional Reforms set before themselves in their second formula, namely, the immediate grant to provinces of a large measure of independence of the Government of India. But it must not be regarded as granting complete independence, for the second aim of the formula, the provision of means whereby the Government of India could secure the due discharge of its own responsibilities, had also to be attained. In theory and in law the Secretary of State had always possessed all-embracing powers to superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India. Similarly, the Government of India have always been empowered to require local Governments to obey the orders of the Governor General in Council, under whose superintendence, direction and control in all matters relating to the government of its province each local Government was placed. The reformed constitution retains these features, but it contains also provision whereby by statutory rules the control of the Secretary of State and of the Government of India may be restricted and regulated. The use to be made of this provision raises at once the problem of how far the wishes of Parliament are, through definite machinery, to be made to prevail, and how far the wishes of provincial Councils in India are to have unimpeded effect. The solution adopted is to limit the interference of the Government of India and the Secretary of State in the administration of transferred subjects to specific occasions only and to definite purposes, but in the case of reserved subjects, to leave the powers of interference from outside unlimited by any restriction of the occasions on which or the purposes for which they may be employed or by any definition of their nature. Accordingly the Secretary of State may control the provincial administration of transferred subjects only for the purposes (*i*) of safeguarding the administration of central subjects, (*ii*) deciding questions arising between two provinces, (*iii*) safeguarding Imperial interests, (*iv*) determining the position of the Government of India in respect of questions arising between India and other parts of the Empire, and (*v*) safeguarding his own powers regarding the High Commissioner, borrowing and the services. Similarly the Government of India may interfere only for the first, second and fifth of these purposes.

Section 2 (2) of the Government of India Act.

Section 45 of the Government of India Act.

Section 19-A, 33 and 45-A of the Government of India Act.

Rules under Section 19-A.

Devolution Rule 49.

Joint Committee's report on clause 33 of the Government of India Bill.

But in regard to reserved subjects there has been no statutory divestment of control over local Governments. Practice and convention have been left to establish how far control should be relaxed, not by restriction or devolution, but by delegation and mere disuse. In theory and in law the powers of superintendence, direction and

control by the Government of India and the Secretary of State are wholly unrestricted.

The Provincial Executive.

6. The division of provincial subjects into transferred subjects and reserved subjects is reflected in a corresponding division of the provincial executive. At the head of the executive is the Governor, appointed by His Majesty by Warrant under the Royal Sign Manual, holding office in practice for 5 years, and receiving emoluments fixed by statute. He does not, however, normally conduct in person the administration of departments, for the government of the province is committed, in relation to reserved subjects, to the Governor in Council and, in relation to transferred subjects, to the Governor acting with Ministers. Members of Council, who may not exceed four, and in practice vary between that number and two, are appointed by His Majesty. They need not be selected from the Legislative Council. If an elected Member of the Legislative Council is selected as a Member of Council, he remains a Member *ex-officio*. Only one of the Members of Council must be an official. Their tenure of office, which is limited in practice to five years, and their emoluments are not at the discretion of the Legislative Council. Ministers, on the other hand, may not be officials and they must be, or must within six months of appointment, become elected members of the local Legislative Council. They are appointed by the Governor and in theory hold office during his pleasure. The power of the Legislative Council, however, to vote their salaries and withhold supply makes the continuance of the confidence of the Council essential to their retention of office. Thus the executive has been split into two parts, one responsible to Parliament, the other responsible to the provincial Legislative Council.

Section 46 (2) of the Act. Second Schedule of the Act. Section 46 (1) of the Act. Section 47 of the Act. Section 52 of the Act.

On the Governor is thrown the task of apportioning responsibility on the one hand and of effecting necessary co-ordination on the other. In the first place it is his duty to allot portfolios of reserved subjects among Members of Council and of transferred subjects among Ministers. The Act and the statutory rules speak with uncertain and perhaps with discordant voices regarding the joint responsibility of Ministers. It cannot be taken as established that a Ministry stands or falls as one. In the second place it is for the Governor to decide in case of dispute whether a subject falls within the transferred or the reserved field, and to indicate the appropriate portfolio. Again the Governor by rules and orders determines what cases may be dealt with departmentally and what must be taken in Council. Finally it is for him to direct when recourse should be had to joint deliberation of both halves of his Government. Such joint deliberation finds no statutory place in the constitution except as regards taxation and borrowing. Thus it is a general ideal, not a specific provision, but the constitution, having this expedient in mind, has definitely provided that responsibility for final decisions must clearly and unequivocally rest either with the Executive Council or with the Ministers. The decision of a majority of his Council is ordinarily binding on the Governor, and in relation to transferred subjects he is guided by the advice

Section 49 of the Act. Devolution Rule 7. Section 49 of the Act. Devolution Rule 30. Joint Committee's report on clause 6 of the Govt. of India Bill and Section 49 of the Act.

Section 50 (2) of the Government of India Act. Section 52 (3) of the Govt. of India Act.

of his Ministers. But for grave reasons he may, on his own authority and responsibility, reject measures which his Councillors approve and enforce what they disapprove, and he may also reject the advice of his Ministers for reasons which the constitution leaves undefined but on which practice, and particularly the importance of the support which the Minister receives in the Legislative Council, impose narrow limits.

The Finance Department Devolution Rules 36-45.

7. There is one portion of the Provincial Executive to which the constitution assigns a distinct position and clearly defined functions. That is the Finance Department. Its peculiar position is a direct result of the introduction of the diarchical system in the Provinces. It continues to be a unified Department and administered by a Member of the Executive Council but deals with two final authorities for the preparation of schemes and for the sanction of expenditure, only one of which is directly subject to the financial control of the Legislature. Unlike those of the British Treasury, its functions are therefore largely advisory and statistical. It has indeed its appropriate duty of ensuring that proper financial rules are framed for the guidance of Administrative Departments. It is also responsible for the safety and proper employment of the Famine Insurance Fund and for the raising and the future service of loans. During the course of the year, it advises Administrative Departments on all schemes of new expenditure for which it is proposed to make provision in the Estimates, on various matters connected with the establishments and the assigning of revenue, on taxation and on loans. It is the guardian of financial regularity but in general, in theory at any rate, its function is to watch and advise on financial provisions that are necessary to give effect to policies rather than to control the administration. If the advice given is not acceptable to the Department concerned, the Finance Department may require its report to be submitted by that Department to the Governor for the orders of the local Government, *i.e.*, the Governor in Council in the case of a Reserved subject and the Governor acting with his Ministers in the case of a Transferred subject.

In connection with the annual Budget, it is the function of the Finance Department to estimate the revenue which will accrue and the expenditure which will come in course of payment. But in the apportionment of the free balance among the Transferred and Reserved subjects, it plays no part under the constitution. The allocation is regulated by Statutory Rules and it has been set down for agreement between the Transferred and Reserved halves of the Government. If they cannot themselves reach a decision, the Governor is empowered to make, not an allotment by selection of schemes for expenditure, but by a distribution in fractional proportions of the revenue and balances for the duration of the then existing Legislative Council. The decision to impose fresh taxes or to raise loans is also taken by the Governor in Council or by the Minister or Ministers according as the proposal originates with the Governor in Council or with the Governor and Ministers. If an order of allocation is made, any increase of revenue accruing

during the period of the order on account of the imposition of fresh taxation is allocated only to that part of the Government by which the taxation is initiated, unless the Legislature otherwise directs. The Finance Department merely examines and reports on all proposals for the increase or reduction of taxation and for borrowing by the local Government.

When the annual appropriation has been settled and has received, where necessary, the approval of the Legislature, the powers of the Finance Department expand. It is the chief authority for sanctioning re-appropriations within grants made by the Legislature. It lays the Audit and Appropriation Accounts before the Committee on Public Accounts and brings to the notice of the Committee all expenditure which has not been duly authorised and any financial irregularities.

The Services.

8. The agents employed by the executive Government for the conduct of the administration are the services. The methods of their recruitment, their conditions of service, pay and allowance, and discipline and conduct are regulated by statutory rules. For the purposes of these rules the services working under the administrative control of local Governments are classified as All-India Services, Provincial Services, Specialist Services and Subordinate Services. This classification regulates the authority of the local Government over them. Members of All-India Services may be awarded minor punishments by the local Government under whom they are serving, but their recruitment and control generally remain in the hands of the Secretary of State in Council. Over other Services the local Government employing them exercises practically full authority. In the case of officers serving in a department dealing with reserved subjects the authority vested in the local Government is exercised over them by the Governor in Council. If the department deals with transferred subjects the authority is exercised by the Governor acting with the Minister in charge of the department, but the personal concurrence of the Governor in certain orders passed to the disadvantage of an officer of an All-India or a Provincial Service is required. At present officers of All-India Services are employed under both halves of Government but recruitment is being so arranged that in course of time only officers of other than All-India Services will be employed in departments dealing with transferred subjects. Ministers, therefore, will ultimately be in full control of the services engaged in the administration of transferred subjects.

Rules under Section 96-B.

Devolution Rule 10.

The Legislative Council. (*a*) Its constitution. Section 72-B of the Government of India Act. Sections 72-A and 72-C of the Government of India Act.

9. Provincial Legislative Councils everywhere are unicameral. The lifetime of the Councils is normally three years, but they may be sooner dissolved by the Governor. Members of the Executive Council, but not the Governor, are ex-officio members of the Legislative Council and the Speaker is an elected President. The numbers of members vary from 53 in Assam to 140 in Bengal. Election is the method prescribed in the Act for obtaining not less than 70 per cent. of the members. The remainder are obtained by nomination by the Governor, but the constitution forbids the use of this method so as to introduce officials in excess of 20 per

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cent. of the total strength of the Council. The expedient of nomination is designed to secure the introduction of officials, the representation of minority communities or interests and the presence of selected individuals. But the discretion of the Governor is not unfettered, for there are from province to province varying classes or interests such as the depressed classes, the inhabitants of backward tracts, the Anglo-Indian community, the labouring classes, the cotton trade, soldiers and aborigines, whose representation by nomination must be secured. Power has been conferred to increase the number of members of any Council subject to the maintenance of the proportions laid down in the Act of official and non-official members. In practice the elected element varies from 74 per cent. in Assam to 81 per cent. in Bengal and the United Provinces.

Section 72-A (2) of the Act.

(*b*) The franchise.

Election is direct. Electoral qualifications vary from province to province and within provinces according to the class of constituency, but their general features are the requirements of residence and the possession of a certain amount of property judged either by the payment of a certain amount of taxation or of rent. Women have been enfranchised in all provinces except Bihar and Orissa. The result is an electorate varying from about 171,000 in the Central Provinces to 1,821,000 in Burma. It represents a proportion of from about one per cent. to about fourteen per cent. of the total population from province to province. Its basis is a rough attempt to estimate or ascertain the strata capable of exercising the rights of citizenship, but its extent has in some provinces been adjusted with regard to the interests to be represented, and has in all provinces been limited by the adequacy of administrative machinery which can be found or devised for election purposes. Further details regarding the franchise and electorates will be found in a separate note.

(*c*) Constituencies.

On constituencies the conflicting claims or jealousies of differing communities and interests have imposed a large degree of heterogeneity. The first division is into General and Special Constituencies. The former are territorial and follow administrative divisions by districts or towns. The latter are non-territorial, and the votes exercised in them are in addition to those based upon territorial qualifications. They are designed to provide separate representation for the special interests of the great landlords, the Universities and industry and commerce. The General Constituencies are divided into Communal and Non-communal, and each of these again into Rural and Urban constituencies. Communal representation by separate electorates has been conferred on Muslims in all provinces except Burma, on Sighs in the Punjab, on Anglo-Indians in Madras, Bengal and Burma, on Indian Christians in Madras, and on Europeans in all provinces except the Punjab, the Central Provinces and Assam. For non-Brahmans in Madras and for Mahrattas in Bombay seats in plural member non-communal constituencies have been reserved. Otherwise for candidates the qualifications are the same as for voters, and women may be elected

in Madras, Bombay, the United Provinces, the Punjab and the Central Provinces.

10. If there were nothing new in the reformed constitution beyond the introduction of a measure of responsibility to the representatives of the electorate, it would suffice to describe the functions of the Legislative Council as those of control over the transferred administration and influence over the reserved administration. But such a description would take inadequate account of the almost equally important innovation by which the Legislative Council obtained an independent position *vis-a-vis* both halves of the executive Government and would preclude a just appreciation of the operation of the constitution. It is true that the constitution contains elaborate provisions designed to safeguard the responsibility of the Governor in Council to Parliament, but these are of the nature of powers to override the decisions of the Legislative Council and it is, therefore, not only convenient but perhaps logical to describe the functions of the Legislative Council first as functions of control, subject to limitations, over the whole executive, and then as functions of influence.

The Legislative Council. Its functions of control.

(a) Legislative.

The legislative authority of a local council is, as has already been said, co-extensive with the peace and good government of the province, and it is concurrent with the authority of the Indian Legislature. The intrusion of the Central Legislature is restrained by the control of the Governor General, but there are three other authorities who may exercise legislative powers in provincial matters. A provincial Council may not make any law affecting any Act of Parliament and the authority of Parliament to legislate for India is not affected by anything contained in the Government of India Act. Again the Governor General in Council may in certain provinces legislate by regulation having the like force of law as if it were an Act of the Indian Legislature; and the Governor General may for all provinces, in cases of emergency, similarly legislate by ordinance having the force of law for not more than six months. Within these conditions the Council's law-making power is unlimited, but it is also controlled. If it confines itself to subjects classified as provincial it may of its own motion take any law into its consideration, save that a few provincial subjects such as infectious and contagious diseases, Universities, land acquisition, disforestation of reserved forests, High Courts, registration, labour disputes, control of the press and professional qualifications have been made subject to legislation by the Indian legislature. On such subjects, on taxation beyond its powers, for the repeal or alteration of certain existing Acts of general application and on all subjects which are not provincial, such as central subjects, the public debt, customs, defence and foreign relations, it may legislate only with the previous sanction of the Governor General. Similarly money bills require the previous sanction of the Governor to their introduction. A Bill passed by a provincial Legislative Council does not become an Act till it has received the assent of the Governor, and an Act does not have

Section 67 (2) of the Act.

Section 71 of the Act.

Section 72 of the Act.

Devolution Rules, Part II, Schedule I.

Section 80-A (3) of the Act.

Section 80-C of the Act.

validity till it has received the assent of the Governor General or, if the Governor General has reserved the Bill, as he may do, for the signification of His Majesty's pleasure, till the assent of His Majesty in Council has been signified. The Governor, however, may instead of assenting or withholding his assent return the Bill for reconsideration by the Legislative Council together with any amendments which he considers to be necessary or desirable. He may also reserve certain classes of bills for the consideration of the Governor General, and other classes of bills he is required to reserve for the same authority. Examples of bills which must be reserved are bills affecting religion or religious rites, bills providing for the construction of light and feeder railways, and bills which have the effect of including within a transferred subject matters which have been classified as a reserved subject. Finally, Acts assented to by the Governor General may be disallowed by His Majesty in Council and when so disallowed, become void.

Section 81-A of the Act.

Reservation of Bills Rules.

Section 82 of the Act.

A very important provision, designed to enable the Governor to discharge his responsibility to Parliament remains to be described. The Governor is armed with powers to secure necessary legislation in spite of the opposition or the recalcitrance of the Councils. Where a Governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the Governor, any Bill relating to a reserved subject, the Governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the Council have not consented, thereto, be deemed to have passed. Adequate provision is made against the abuse of this extraordinary power by the requirement of laying before Parliament as a preliminary to obtaining His Majesty's assent. Only in cases of emergency can an Act so made by the Governor be given immediate effect by the assent of the Governor General and in each such case the Act is liable to disallowance by His Majesty. These special powers of the Governor are not applicable to transferred subjects.

Section 72-E of the Act.

(*b*) Financial

The provincial field of finance has already been described. It is now time to describe the position of the Legislative Council in that field. The ruling principles are that it is the function of the executive alone, on the recommendation of the Governor to demand supply; it is the function of the legislature to grant supply and later to satisfy itself that it has been appropriated to the objects for which it was granted. But the authority of the Legislative Council is not unimpaired, for that part of the executive which is responsible, not to the Legislative Council, but to Parliament must be enabled to discharge its responsibility. The Governor is therefore armed with the powers to secure necessary supply which will be described later (paragraph 12). The demands of the executive are made, as far as possible, once a year, when the budget is presented, but supplementary demands are from time to time made, and to them also the constitutional provisions now to be described are applicable. The financial programme for the year is dealt with in

Section 72-D of the Act.

two stages. First, the estimated annual expenditure and revenue of the province are laid before the Council in the form of a statement on which a general discussion is raised but no motion is made. This statement and the discussion on it cover the whole field. At the next stage demands for grants are made by the executive. Here the authority of the Legislative Council is subject to certain limitations. In the first place, appropriations for certain classes of expenditure known as "non-voted" are made by the executive Government without being submitted as demands to the Legislative Council. These classes of expenditure include contributions payable to the central Government, interest and sinking fund charges on loans, expenditure of which the amount is prescribed by or under any law, and salaries, pensions and allowances payable to various classes of officials principally members of the All-India Services. All other classes of expenditure are submitted in order to the vote of the Council, which may assent or refuse its assent, or may omit or reduce any grant or any item in the grant, but may not increase or alter the destination of a grant. In the second place, in the case of reserved subjects, an appropriation refused by the Council may nevertheless be made by the executive if the Governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject. Finally, in the case of all subjects, transferred not less than reserved, the Governor has power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province or for the carrying on of any department. When the annual appropriations have been made the financial work of the legislature for the time being is over. No reappropriation from grant to grant is constitutionally possible, and reappropriations within grants are the function of the Finance Department, but in some provinces the Legislative Council through a sub-committee continues to interest itself in these variations from the programme approved by the Council in assenting to the demands. It is, however, after the close of the year when the actual application of the grants becomes known that the financial authority of the legislatures takes new life. In each province statutory rules have set up a Public Accounts Committee. In origin this Committee was intended to satisfy itself only as regards the regularity of expenditure, that is the application of voted funds to the purposes for which they were sanctioned by the Legislative Council. But in practice, and perhaps in consequence of the position assigned by statutory rules to the Auditor General, it does much more. It concerns itself with administrative audit, that is, with the propriety of expenditure, and it does not everywhere confine itself to the appropriation of voted as distinct from non-voted expenditure.

Section 72-D (3) of the Act.

Section 72-D (2), proviso (a).

Rules 33 and 34 of Provincial Legislative Rules.

When the annual revenues are inadequate and recourse is had to taxation, the powers of the Legislative Council are the same as those for legislation* generally, but within the ambit of financial devolution to provinces already described. The executive Govern-

* Rule 2 of the Scheduled Taxes Rules.

ment is able through the Governor's power of certification to secure measures of taxation necessary for the discharge of its responsibilities to Parliament. Over borrowing the Legislative Council has no powers other than its powers of granting or refusing supply out of the proceeds. The financial powers of the Legislative Council in spite of the exclusion of their interference in non-voted expenditure and the considerable overriding powers of the reserved administration are, therefore, substantial. They are greatly enhanced by their powers of influence to be described presently, and their importance in practice and by convention exceeds their importance in the letter of the constitution.

The Legislative Council. Its sphere of influence.

11. An alert Legislative Council cannot be expected to acquiesce tamely in rigid limitations of its authority. Drawing its inspiration from a popular franchise, and faced with an executive charged with the duty of its sympathetic education till full authority can be granted, it must necessarily seek to assert its influence, if not its authority, over alien fields of administration. Accordingly a true account of the influence of provincial Councils must be sought in the history of the operation of provincial constitutions. There it will be relevant to enquire how far Standing Committees of the Legislative Council, which indeed find no place in the written constitution but occupy an important place in practire, have brought even reserved administration and non-voted supply within popular cognizance; how far joint deliberations of the executives and a joint purse have obliterated dyarchy's wall of partition; how far definitely devolved authority has been used as a lever to bring pressure to bear where the recognised authority is that of Parliament alone. Here it is in place to mention three important respects in which the Legislative Council has been empowered to influence all administration without distinction.

First, a wide power of interpellation has placed in the hands of the Legislative Council a potent weapon for checking the day to day acts of the Executive, and affecting its policy. On matters affecting foreign policy and the relations with or the administration of the Indian States and on pending litigation questions may not be asked, and questions on matters not primarily the concern of the local Government may be disallowed by the President. But, generally the whole field of provincial administration is open to interpellation and to supplementary interpellation by any member of the Legislative Council. Questions are not debated in the manner of the House of Lords. The scope of interpellation is that observed in the House of Commons.

Rule 8 of the Provincial Leg. Rules.

Rule 7 of the Provincial Leg. Rules.

Secondly, any member of the Legislative Council may move a resolution, and thus ventilate a popular grievance or attempt to bring the policy of Government more into accord with popular views. The subjects for discussion on a resolution are subject to the same restrictions as the subject matter of questions, and in addition the Governor has power to disallow and so to preclude from discussion a resolution which he considers cannot be moved without detriment to the public interest or which relates to a matter

Rule 23 of the Provincial Leg. Rules. Rules 22 of the Pro-

not primarily the concern of the local Government. Every resolution is in the form of a specific recommendation addressed to Government and, if passed, with or without amendment,—for amendments may bemoved—it has effect only as a recommendation. Whether it be on a reserved or a transferred subject it is not binding on Government. vincial Leg. Rules. Rule 24 of the Provincial Leg. Rules.

Lastly, motions may be made for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance. The right is subject to restrictions intended to obviate too frequent interruptions of the business of the House, and preventing anticipation or the revival of discussions concluded in the same session. Otherwise the restrictions as regards substance are the same as in the case of resolutions. Rules 11 and 12 of the Provincial Leg. Rules.

12. The foregoing account should have made it clear that while the essentials of provincial constitutions are simple and distinct, the details are extraordinarily multifarious. In day to day administration multifariousness has the same effect as complexity. It multiplies and magnifies occasions for dissensions. The transitional arrangements of the present constitution have in them, perhaps designedly, the seeds of domestic conflict, for they set up authorities who are to be educated for fuller responsibility and who, therefore, must strain to use in wider fields their growing strength. The plan of the constitution, therefore, could not be translated into practice unless an authority were created capable of unifying the whole. That authority has been found in the Governor. The distinction between the Governor acting alone and the Governor in Council or the Governor with Ministers is often losely confused, but the Governor, without colleague or adviser, occupies perhaps the most important and most necessary position in the whole system. The Governor.

In the first place, he is personally responsible for the proper administration of his entire province. It is true that he stands apart from the discussion of the legislative body, for he is not a member of the Legislative Council, and outside the administration, for he normally holds no portfolio. But he is the statutory controller, in varying measures of every branch of the administration. Allusion has already been made to some of his powers. He may dissolve the Legislative Council when he deems reference to the electorate advisable. He may override its refusal of necessary legislation or necessary supply in respect to reserved subjects and may grant or withhold assent to its Bills. The allotment of different days for the disposal of the different classes of its business is at his discretion, and he may prevent discussions in the Council and the consideration of a Bill, a clause or an amendment which affects the safety or tranquillity of his province. He alone may recommend demands for supply, and he may require the attendance of members for the purpose of being addressed by him. Business rules for the conduct of the work of the executive are made by him. He may override the decisions of one half of the executive and reject the advice of the other, and it is his duty to bring both into harmony and to compose disputes. And if in an emergency the constitution Section 72-B (1) of the Act. Sections 72-E and 72-D (2) of the Act. Section 81 of the Act. Rule 6 of the Provincial Leg. Rules. Section 72-D (4) of the Act. Proviso (c) to Section 72-D (1) of the Act. Section 72-A (1) of the Act. Section 49 of the Act.

Transferred Subjects (Temporary) Administration Rules.

on its transferred side should threaten to break down he must maintain it by assuming in person the temporary administration of the transferred departments.

In the second place he is the interpreter of the constitution. In many constitutions in which there is less room for difference of interpretation that duty is laid upon the Courts. But the transitional constitution of India is careful to avoid that expedient. Even the validity of Indian laws is not open to the scrutiny of the judiciary on certain grounds of constitutional irregularity. It is the Governor who preserves from time to time, by decisions which have finality, the distinction between transferred and reserved subjects, and he is the sole authority for determining the votability or non-votability of supply.

Sections 52-B and 84 of the Act.

Devolution Rule 7.

Finally he is the inspirer of the administration with the spirit of the reforms. That spirit is not to be found in the letter of the Act or in the statutory rules; but it is enshrined for him in a prerogative document, namely, his Instrument of Instructions from the Crown. He is there charged generally with responsibility for maintaining standards of good administration, religious toleration and good will among classes, the probity and solvency of public finance, and the progress of the people in moral, social and industrial welfare; for educating the electorate; for focussing the responsibility of councillors and Ministers; for encouraging joint deliberation; for assisting his Ministers; and for respecting the wishes of the electorate and their representatives in considering a Minister's advice. In particular, care for the safety and tranquillity of the province and for the avoidance of religious or racial conflict is laid upon him. He must have special regard to depressed classes and minority communities, safeguard all members of the services in the legitimate exercise of their functions, prevent unfair preferential or hostile treatment of any race, religion or class by the executive or the Legislative Council, and set his face against any monopoly or special privilege detrimental to the common interest.

The Constitution of the Central Government.

The characteristic features of the Central Government.

13. The design of the constitution of the Government of India is contained in embryo in the third formula of the Report on Indian Constitutional Reforms. It remains responsible only to Parliament, and in all matters which it judges to be essential to the discharge of its responsibilities for peace, order and good government it retains, save for its accountability to Parliament, indisputable power. It differs *toto caelo* from provincial constitutions. No division of functions has been imposed upon the Government of India. It rests its authority on no statutory devolution. Delegation from the Home Government is the source of its authority. Its allegiance is undivided. The superintendence, direction and control of the civil and military government of India is vested in the Governor General in Council, but he is required to pay due

Section 33 of the Govern-

obedience to all such orders as he may receive from the Secretary of State, and his powers to expend the revenues of India have their origin in provisions or restrictions prescribed by the Secretary of State in Council amounting to delegation of the authority of that body. The Government of India is, therefore, a subordinate, unitary, official government under His Majesty's Government.

ment of India Act. Section 21 of the Government of India Act.

But the design of the Authors of the present constitution was not complete with the retention of these time-honoured features. They desired to introduce a new element of strength into the Government, and they did so by creating a representative legislature distinct from the executive. This new element of strength, however, looking outside for its mandate, is necessarily a threat to the indisputable powers of the Government of India and to the fundamental powers of the Home Government to control the administration, which it has delegated not devolved. A representative legislative body has normally powers over legislation and over supply, and the problems which arose were, first, the necessary safe-guarding of the indisputable power of the Governor General in Council and, second, the suitable relaxation of the powers of the Secretary of State. It is these problems that have introduced complexity into the constitution of the central Government. The first problem was solved in much the same manner as in the provinces. Legislative and financial authority is conceded to the legislative chambers, but the former authority is to a certain extent controlled, and the latter is to a greater extent restricted by the treatment of certain important subjects as non-voted; and the executive retains powers to override the decisions of the legislative chambers and to obtain necessary legislation and supply. The second problem was left to the solvent of practice and convention, as is more fully explained in the concluding paragraph of this note.

Part. 265 of the Report on Indian Constitutional Reforms.

14. The Central Government is concerned—

The scope of central administration.

with the administration of Central Subjects in Provinces where a division of subjects has been effected.

with the superintendence, direction and control over the administration of provincial reserved subjects by the local Governments of such provinces, and also,

with the administration of all subjects in areas directly under its authority.

The first and second of these concerns have already been described in connection with provincial constitutions. The third arises wherever within British India a reformed constitution has not been granted, that is to say, wherever there has been no devolution of authority over subjects demarcated as provincial and no allocation of revenues. These areas are the North West Frontier Province, Baluchistan, Delhi, Ajmer-Merwara, and the Andamans. In Coorg a Legislative Council has been set up, provincial subjects have been separated from Central subjects; and separate revenues have been allocated to the local administration; but there has been no explicit devolution of authority to the Chief Commissioner. In

the other areas there are no Legislative Councils. The local executive is merely an agency of the Central Government. The annual estimates of revenue and expenditure are part of the central budget, and the Legislative authority of the Indian Legislature is unimpaired. The practical work of administration is, of course, carried on by the local executive, but in these territories there is no limit to the power of control vested in the Central Government, and the head of the administration owes his appointment to the Governor General.

The Central Executive. Its composition and powers. Sections 34 and 36 of the Act.

15. The executive Government of India is the Governor General in Council. The Governor General himself and the Members of his Council are alike appointed by His Majesty by Warrant under the Royal Sign Manual, and the latter are unlimited in number. Present practice is that they should include the Commander-in-Chief and six civilian members of whom three are Indians. They form a single unitary executive without any of the discriminations which dyarchy and the statutory creation of a Finance Department have introduced into provinces. In practice the portfolio system prevails, but it has no more permanent basis than rules or orders which the Governor General at his personal discretion may make for the more convenient transaction of business in his executive council. It is these rules which determine the business to be disposed of departmentally and the method of bringing matters of importance to joint discussion and decision. When the Council acts in session decisions follow the majority opinion, but the Governor General has powers similar to those of a Governor in a provincial Executive Council for overruling, in suitable circumstances, the views of his Council. The administrative powers of the Council are limited generally only by the powers of the Secretary of State for its superintendence, direction and control; its financial powers are also limited by code restrictions which bear chiefly upon establishment charges above certain limits and large capital expenditure. But the Government of India have practically no power to make war or to enter into treaties. Its agents of administration are members of the All-India services and establishments arranged in what are known as Central Services.

Section 40 2) of the Act.

Section 41 (2) of the Act.

Section 44 of the Act.

The Indian Legislative Chambers. Section 63 of the Act Section 63-E (4) of the Act.

16. The Indian legislature consists of the Governor General and two chambers, namely the Council of State and the Legislative Assembly. The Members of the Executive Council may attend in and address either Chamber. Each Member must be nominated as a member of one or other of the Chambers but not of both. The Assembly is the popular Chamber. It normally continues for three years, and it includes 145 members of whom 104 are elected, 41, *i.e.*, 26 officials and 15 non-officials including the Berar representative, are nominated by the Governor General. The number of elected members has been fixed on a consideration of the importance of each province. The franchise has been arranged on the same lines as for the provincial franchise but with higher electoral qualifications, and constituencies so as to give communal and special representation. Muslims have been granted separate representation in all provinces except Burma. Europeans in Madras, Bombay,

Bengal, the United Provinces, Assam and Burma and Sikhs in the Punjab. There is no reservation of seats in General constituencies such as maintains the proportion of non-Brahmins and Mahrattas in provincial Legislative Councils. The interests which vote in special constituencies are landowners, and Indian commerce.

The Council of State, which is a true second chamber, is 60 strong. Officials provide not more than 20 nominated members; non-officials not less than seven. The remaining 33 members are directly elected by a restricted electorate and in provincial proportions determined as for the Assembly. The franchise has been framed so as to give the Upper House a character distinct from that of the Lower House, for property qualifications have been pitched so high as to secure the representation of the landholders,—the hereditary aristocracy of India,—and the capitalists,—the mercantile aristocracy; certain personal qualifications such as learning, experience in public affairs or commercial ability are also accepted. Communal representation is extended to Muslims and Sikhs, but the only special interest recognized in framing constituencies is that of European commerce. The Council of State sits under a President appointed by the Governor General and it continues for five years. Women are not entitled to vote at elections to the Council of State or to offer themselves for election, but they are enfranchised for the Assembly in provinces where the sex disqualification for the provincial Legislative Councils has been removed.

Their powers and influence.

17. The authority and influence of the Indian Legislature are designed on similar lines to those of provincial legislative councils. The same powers of interpellation and of deliberation, whether on resolution or on motion to adjourn, are enjoyed in both Houses and are subject to similar liability to disallowance or exclusion. In legislation and in finance there are important differences. The general power of a provincial legislative council is its authority to make laws for the peace and good government of the province. The primary legislative power of the Indian Legislature is a power to make laws for all persons, courts, places and things within British India, for all subjects of His Majesty and servants of the Crown in other parts of India and for all native Indian subjects of His Majesty without and beyond, as well as within, British India. The first restriction on its power is the refusal of power to repeal or affect an Act of Parliament passed since 1860 or such an Act enabling the Secretary of State to raise money in England. It is also prohibited from legislating, except with the previous sanction of the Governor General, to affect the public debt or public revenues, the religion or religious rites and usages of any class of subjects, the discipline or maintenance of the defence forces, and foreign relations and from invading the field of provincial legislation or interfering with the powers of the Governor General to legislate. Legislation may be initiated in either House, but to be effective, must pass through both, and its course is subject, as in provinces, to provisions regarding previous sanction, reservation, and assent. The Governor General has also powers to secure necessary legislation.

Section 65 of the Act.

Section 67 of the Act.

The financial control of the Legislative Assembly is limited by removing from its vote the items which are also non-votable in provinces, and an important addition to the non-votable list in the Legislative Assembly has been made by the inclusion of expenditure classified as ecclesiastical, political and defence. It is also a peculiarity of central finance that the general discussion of the budget may not extend to non-voted items unless the Governor General—as in practice he normally does—otherwise directs. The same power of securing to the executive the supply which it considers necessary has been retained as has been provided for the reserved administration in provinces.

Relations between the two Houses.

Section 67-A (3) of the Act.

18. It is in the relations between the two Chambers that provincial arrangements afford no parallel. In theory both houses have co-ordinate authority, save that demands for grants are submitted to the Assembly alone; the annual statement of estimated revenue and expenditure is presented simultaneously in both Chambers, and in both the same discussion of its main principles is admissible. Only the Assembly can grant or withhold supply. Money Bills, however, are not distinguished from bills on other subjects and are as much with in the competence of the Council of State as of the Lower House. The Finance Bill has to follow the procedure of any other Bill and is liable to be amended by the Council of State.

Section 67 (3) of the Act and Rules 37—42 of the Indian Leg. Rules.

Two Chambers so different in complexion are bound to differ in view, and some means of avoiding or composing differences is obviously desirable. The three means devised by the Act or by statutory rules under it are Joint Committees, Joint Conferences and Joint Sittings. The first is a means of forestalling differences and expediting the passage of a particular bill. The adoption of this procedure requires a formal resolution in each Chamber, and each nominates an equal number of members. The second means is to be used when a difference of opinion has arisen. At a joint Conference each Chamber is represented by an equal number of members, but no decision is taken. The results of a conference are to be looked for in the subsequent proceedings of either or both Chambers. The case is different where the third means is adopted. Where the originating and the revising Chambers have failed to reach agreement within six months of the passing of the Bill by the originating Chamber, it rests with the Governor General, in his discretion, to convene a joint sitting of both Chambers at which those present deliberate and vote upon the Bill in the shape given to it by the originating house and on the outstanding amendments. The decision there taken is deemed to be the decision of both Chambers. This method of composing differences is more suited to general legislation than to finance bills, for it may not be adopted till six months have elapsed since the passage of the bill in the originating Chamber. In practice, however, it has never been employed for either purpose.

The Governor-General.

19. Here again is a constitution for which a single pivot must be found whereon it may turn. There is not in the Government of

India, as in provinces, a divided responsibility of the executive to be in practice brought together, but there are elements of conflict enough to be harmonised. An executive owing allegiance only to Parliament and demanding necessary measures and necessary supplies, and a representative legislature with legislative and financial powers must often be at variance. Who is to keep each within bounds? That task has been devolved upon the Governor General personally. He has very peculiar powers attaching to his person or his office which are not at present relevant. He is the personal representative of His Majesty. He exercises the royal prerogative of pardon. He is concerned with the appointment of certain high officials, and so on. But as a more intimate part of the constitution the duties of the Governor General acting without his Council are numerous and varied. In the first place, where executive control over or interference with the Legislative Chambers is necessary, power is generally entrusted not to the Governor General in Council but to the Governor General. He initiates elections therein and makes nominations to them, appoints the times and places of their sittings, allots their days for non-official business, prorogues them and dissolves them. When their deliberations require previous sanction he accords it; when motions and resolutions are ill-advised in the public interest he forbids them. If the Chambers cannot compose their differences he may intervene. If they agree, his assent to their measures is required. If the limits of the powers to control supply are in question he decides. Their standing orders are altered with his consent. Section 67-A (4) of the Act.

Again, in administration what is essential is at his discretion. Without his recommendation no appropriation of revenue can be proposed by the Governor General in Council. He alone can make by certification necessary legislation, authorize expenditure in an emergency without reference to the Legislature and pass, by executive order, emergency ordinances. For necessary purposes he may overrule his Executive Council. And on his judgment of the convenience of business depend the portfolio system and the separate authority of the Members on his Council. More generally, the whole spirit of the constitution is his peculiar care. His Instrument of Instructions charges him with the furtherance of the policy set forth in the preamble to the Act of 1919, which is the quintessential distillation of Parliament's desires. He must see that the administration of his own Government pays due regard to the wishes of the people as expressed by their representatives in the Indian Legislative Chambers, and that the central superintendence over local Governments gives due heed to policy which finds favour in the provincial Legislative Council. Finally, he must guide the people of India to the progressive realization of responsible government. Section 67-A (8) of the Act.

The Home Government.

20. In the last resort the authority concerned with the Government of India is, of course, Parliament, and in certain matters it takes an immediate interest. For instance, expenditure from Parliament.

Indian revenues on military operations beyond the external frontiers of India may not be undertaken without its sanction, and the Secretary of State derives from Acts of Parliament his power to raise loans in Great Britain on the security of Indian revenues within the limits of amount specified from time to time by such Acts. His power to raise loans in India is, however, not so limited.

Section 19-A of the Act.

Rules and orders of major constitutional importance, particularly those divesting the Secretary of State of responsibility to it for reserved subjects, must before issue receive its approval by resolution. Similar proceedings of less importance must be laid before it as soon as may be after they are taken. But ordinarily Parliament is content to leave to the Secretary of State the conduct of business transacted in the United Kingdom in relation to the Government of India, and to rely on his responsibility to itself. It keeps itself automatically informed by the annual presentation of the Indian budget and of a statement showing the moral and material progress of India, and through a Standing Joint Committee which has a purely advisory and consultative status.

Section 26 (3) of the Act.

The Secretary of State and the India Council.

21. The day to day administration of the Home Government of India is in the hands of the Secretary of State, who is assisted in many respects by a Council under his direction and composed of members with Indian experience, and who is in other respects controlled by them. In general when a decision has to be taken by the Secretary of State in Council and a difference of opinion arises the determination of the Secretary of State is final. But in certain matters the Council has special authority. One group of these matters refers to the making of rules regarding the civil services in India. The more important group is financial. Here the Secretary of State must act not only in his Council but with it. He may not make a grant or appropriation of any part of the revenues or any other property coming into his possession by virtue of the statutes or sell or mortgage any real or personal estate for the time being vested in His Majesty for the purpose of the government of India without the concurrence of the majority of the votes of the Council.

Section 9 of the Act.

Section 96-E of the Act.

Section 21 of the Act.

Many of the powers of the Secretary of State are exercised in Council, but the Council itself has no functions of initiation. These powers are both detailed and considerable, and include guardianship of the official services. But it is the statutory duties and powers of the Secretary of State in person which are of supreme constitutional importance, for it is to him alone that the superintendence, direction and control of the Government of India are committed and it is his orders to which the Governor General in Council must pay due obedience.

Sections 2 (2) and 33 of the Act.

Relaxation of control.

22. The practical test of the scope of the Home Government is, therefore, the extent of the control of the Secretary of State over the Government of India and provincial Governments. It was this control, and consequently the control of Parliament, which the Authors of the report on Indian Constitutional Reforms in their fourth formula decided should be relaxed.

In the case of the provincial transferred subjects no particular difficulty arose. There the recognition of responsibility to the local legislature necessarily resulted in ousting to a great extent responsibility to Parliament. Relaxation has taken the definite form of divestment of power by statutory rules, and only those limited powers of interference have been retained which have already been described. But, in the case of reserved provincial subjects and all central subjects, since divestment of control implies abnegation of responsibility to Parliament without subjection to responsibility to any legislative body in India the constitutional anomaly which would arise from the withdrawal of the controlling powers of the Secretary of State has been recognised and no rules for that purpose have been framed. The code restrictions on the financial powers of the Government of India and provincial Governments, which have indeed statutory force, have been limited to the degree already described, but in administrative matters relaxation has been left to delegation in practice rather than by rule, and to convention. There has been no shifting of responsibility and the Secretary of State continues to exercise ultimate control. Only in one particular has convention so far crystallized as to become a part of the constitution. That is the fiscal convention by which the Secretary of State as far as possible respects a concurrence of opinion between the Government of India and the Indian Legislature on fiscal matters and limits his intervention to safeguarding the international obligations of the Empire or any fiscal arrangements within the Empire to which His Majesty's Government is a party. The Secretary of State has however resigned certain functions which are purely of an agency nature. These functions have been separated from his other functions and have been entrusted to a High Commissioner for India in London, who is a servant of the Government of India and has little to do with the Secretary of State. It is to be observed, however, that the raising of sterling loans and similar financial functions have been regarded as functions performed by the Secretary of State as a principal and not treated as agency functions.

SHORT SKETCH OF THE OPERATION OF THE CONSTITUTION IN THE CENTRAL GOVERNMENT.

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Short Sketch of the Operation of the Constitution in the Central Government.

Introductory.

The object of this note is to present in a succinct form an account of the working of the system of the central Government into which sub-section (2) of section 84A of the Act directs enquiry to be made. In the central and the provincial administrations alike constitutional problems of similar import have arisen, and the two systems are, in the field of the Government of India's superintendence, direction and control the obverse and reverse of each other, but because they are, in the essential matter of responsibility to the legislature, distinct from each other and because the provincial accounts of the working of the system have not yet been prepared, it is proposed on this occasion to deal with the Government of India alone and to leave the operation of the provincial constitutions for separate discussion. The relations of the central Government to provincial Governments will here be described from the standpoint of the Government of India; the description of this matter will be completed in the corresponding note for provincial constitutions. Scope of this note.

An account of the working of the system may be either a chapter of political history, an administrative record or a conspectus of constitutional life and progress. All three are capable of very full treatment, and fairly numerous sources for the first two exist.* In the interests of conciseness, however, only the last is here attempted, and only so much reference will be made to political conditions and changes and to actual administrative or legislative achievements as is necessary to illustrate the constitution, its development and the spirit in which it has been worked.

2. An enquiry into the working of the constitution of the Government of India has three main aspects, a consideration of which may result in a comprehensive view of the matter. In the first place, the enquiry is concerned with the relations of a representative legislature and an official irremovable executive. It must consider how the authority of the legislature is based and has been exercised, how it has been met by the executive and how far the legislature, where it possesses no definite authority, has been The Problem.

* India's Parliament, "India", Departmental Memoranda.

successful in influencing the executive. Again, it must deal with the superintendence, direction and control which the Government of India exercises over provincial Governments. Finally, it must deal with the obedience which the Government of India owes and pays to Parliament through the Secretary of State. The first of these matters will be dealt with under the head of ' The Legislature '. The others will fall under the head of ' The Executive '.

The Legislature.

The political atmosphere at each election.

3. The two chambers of the Indian legislature are the Council of State and the Legislative Assembly. Elections to the former took place in 1920 and in 1925, and to the latter in 1920, 1923 and 1926. The first elections were conducted at a time when non-co-operation was at its height and Hindu-Moslem dissensions had been for a time allayed. Political opinion was definitely and openly divided into extreme and moderate opinion, the former rejecting the reformed constitution and boycotting the legislatures; the latter, whatever its view of the adequacy of the reforms, prepared to enter the legislatures and to work the institutions which had been granted. It would not be in place here to describe the gradual change which came over the opinion favouring non-co-operation during the currency of the first Legislative Assembly. It will suffice to say that by 1923, shortly before the second elections were held, the larger part of the non-co-operation party, without abandoning their condemnation of the reformed constitution, determined to enter the legislatures and to wreck the constitution from within. This logically involved the abandonment of any attempt to boycott the registration of voters and might be expected to have its effect on the growth of the electorate, but the decision came too late to permit much to be done towards bringing new names on the roll for the second election. Concurrently with this change in political policy there was a gradual resurgence of communal differences. During the life-time of the second Assembly political opinion underwent a further change and when the elections in 1926 took place not only were the elections fought to a greater extent than before on communal lines, but a considerable number of prominent politicians, who formerly belonged to the non-co-operation party inside the Assembly, adopted the policy of responsive co-operation, which is briefly a policy of co-operating with Government when the latter's measures are considered to be for the welfare of India. Three inferences from this short account suggest themselves. First, at the election of 1920 there were potent influences at work hostile to the development of the electorate and to the use of the franchise. Second, the three Assemblies took a widely different view of the use to be made of their powers. Third, the degree to which the administrative and legislative necessities of the country were obscured by the main political problem varied from Assembly to Assembly. The first Legislatures functioned harmoniously. They did not fail to press the need for further constitutional progress, but they seldom lost sight of the day-to-day requirements of the country, and they tried

honestly to provide for them. The work of the second Assembly was at the outset dominated by political considerations, and by the policy of obstruction. The futility of such a policy no doubt became steadily more apparent as the term of the Assembly wore on, but in general a motion was always liable to rejection not on its merits but for obstructive ends. In the third Assembly there has been neither the wish nor the opportunity for blind obstruction. Although on occasion purely political considerations have prevailed and the extreme party have acted out of mere hostility to the constitution, yet numerous matters of great importance to the country have come under discussion and the attention of the house has to a growing extent been directed to the merits of large administrative and legislative questions. The second Council of State included a number of members of extreme political views but its temper generally and the spirit in which it approached its work did not differ radically from those displayed by its predecessor.

The growth of the electorate.

4. When the franchise qualifications for the Legislative Assembly in the eight major provinces (excluding Burma) were first fixed, they were expected to yield an electorate of 908,740, the non-Muhammadan constituencies accounting for 687,100 electors, Muhammadan constituencies for 206,640 and the Sikh constituencies for 15,000. The first registration of voters in 1920 showed in these provinces an electorate of 904,746, the original estimate being largely exceeded in Madras, Bombay and the Central Provinces; in other provinces the electorate fell short of the estimate to a greater or less degree. How far the registered strength of the electorate was affected by the novelty of the work and by the congress policy of boycott it is not easy to determine. The agency used was almost entirely official and the habit of seeking registration or of securing it for those who were likely to support any particular policy has even yet not become established. But successive registrations since 1920 have shown a steady growth in the franchise. During that time the only modification of the electorate qualifications has been the grant of female suffrage and this has added 52,156 voters to the register. But the inclusion of women does not explain the greater part of the increase which has taken place in each province. In 1923 the electorate stood at 990,979 including new elements of 40,821 male and female voters in Burma, which meanwhile had been granted a reformed constitution, and 21,033 women voters in Madras, Bombay and the United Provinces. In 1926 the electorate had risen to 1,128,331. The increase was spread over all provinces.

The causes of growth, apart from the new franchise in Burma, the extension of female suffrage and the creation of a seat for Ajmer-Merwara, appear to have been the decay of non-co-operation, the adoption by the Congress of the policy of council entry, the growth of population, the increase of wealth bringing more citizens above the qualification levels and, possibly, improved methods of registration. It is doubtful whether the average citizen places a higher value on the vote than before and whether he

is, therefore, more avid of registration. But it is not doubtful that the policy of council entry became more popular with political parties and, therefore, that the number of those anxious to secure the electors' votes has grown.

The Council of State electorate in 1920 numbered 17,644 including 2,464 voters from Burma. By 1925 Burma had received a new constitution and the electoral rules there had been varied. The Burma electorate for the Council of State rose to 15,555 persons and the total electorate to 32,126 so that the peculiar result emerges that almost half the electorate of the Council of State is found in Burma which fills only 2 out of the 34 seats and is less interested in the Indian legislature than any other part of India. If Burma be excluded, then the electorate for the Council of State has risen from 15,180 in 1920 to 16,571 in 1925. It is this electorate which in particular is affected by various increases in wealth. The five years saw larger or smaller increases in most provinces, but there was a very significant decrease in the electorate in Bombay from 2,956 to 1,826. In Assam the decrease was from 301 to 71. The decreases were possibly due to temporary variations in the number of persons assessed to income-tax in the higher grades.

The use made of the franchise.

5. Registration of voters by official agency does not depend altogether for its success on the voters' own applications. The electoral rolls of 1920 at least were prepared chiefly as the result of official enquiries or personal information. The growth of the electorate, therefore, is less significant of the popular attitude towards the reforms than the growth of voting. The first factor influencing the volume of voting is the extent to which seats were contested. The first elections to the Council of State were to only a small extent fought on political lines. The franchise is so framed as to give a representation of interests and classes and candidates relied mainly on their social position and personal popularity in the constituencies. The same was true of the second elections but to a less degree, for nine candidates were returned on a political ticket and with the support of the Swarajist political organisation, and there is now a regular organised Swarajist group in the Chamber. At each election 10 seats were filled without a contest, and 24 after contest. On neither occasion was polling necessary in the Commerce constituencies.

At the three elections for the Assembly there were respectively 66, 76 and 71 contests, and 38, 29 and 34 seats went uncontested. For neither chamber has any seat ever been without any candidate. Contests are frequently avoided by arrangements between candidates or by arbitration, and a candidate with great personal influence is not seldom spared opposition. The European constituencies have never been contested, and in 1926 Indian Commerce constituencies did not go to the poll. In 1920, 179,545 votes or 25 per cent. of the total number of electors in contested constituencies for the Assembly were polled. The number rose in 1923 to 343,501 and the percentage to 42; and in 1926 to 401,575 and 48 per cent., respectively. Out of the total electorate for the

Assembly only 20 per cent. in 1920 went to the poll. The percentage was the highest in the Punjab (31 per cent.) and lowest in Bombay (4 per cent.), where 11 of the 16 seats were uncontested and even in contested Muhammadan and Non-Muhammadan constituencies only 6 or 7 per cent. of the electorate voted. At the second election in 1923 the atmosphere had changed. In all 35 per cent. of the total electorate voted. Bombay, which in 1920 polled only 4,796 votes, now sent 52,263 voters to the poll or 36 per cent. of the total electorate. In Madras the percentage was 40 and in the Punjab 55, but in Bengal and the United Provinces where the new Congress policy had not yet had time to take full effect, the percentage did not rise above 28. More even results were achieved in 1926. On that occasion 36 per cent. of the total electorate voted in spite of an increase in the number of uncontested constituencies. Interest in the elections was general, as party feeling ran high, but Burma, where there is little local interest in the Indian legislature, polled only a little over 6,000 votes or 13 per cent. of the electorate. The three presidencies varied little from each other; the percentage of votes polled varied from 30 to 34. In the United Provinces the percentage rose to 39 and the Punjab (47 per cent.), Bihar and Orissa (50 per cent.) and the Central Provinces (48 per cent.) polled about half the electorate.

The Council of State electorate has been rather less affected by political prepossessions. In 1920, 45 per cent. of the total electors voted and 55 per cent. of the electorate in contested constituencies. In the Presidencies—Madras 74 per cent., Bombay 69 per cent., Bengal 51 per cent. of the total electorate, the proportions were high. In the Punjab (44 per cent.), Bihar and Orissa (42 per cent.) and Assam (58 per cent.) there was a similar readiness to return representatives, but in the United Provinces only three out of the five constituencies were contested and in the Central Provinces (26 per cent.) the conditions approached to the conditions obtaining in the Assembly electorate. The poll was only 15 per cent. in Burma. In 1925 more than half the electors outside Burma went to the poll. In Bengal 48 per cent., United Provinces 46 per cent., the Punjab 41 per cent., Central Provinces 45 per cent. voted and there were heavy polls in Madras (85 per cent.) and Bihar and Orissa (80 per cent.). But Bombay, although 4 out of the 6 constituencies were contested, polled only 24 per cent. of its electorate and Burma showed its lack of interest by sending only 764 persons or 5 per cent. of the electorate to the poll.

Statistics of the use of the franchise made by women are not available for Burma. In India in 1923 the franchise was enjoyed only in Madras, Bombay and the United Provinces. In the province last named out of 2,635 women registered in contested constituencies only 18 went to the poll. In Bombay 210 out of 2,428 voted and in Madras 1,363 out of 13,091. In the 1926 elections women voted more freely. In contested constituencies 22 per cent. of the women voters in Madras voted, 12 per cent. in Bombay and

12 per cent. in the Punjab. But in Bengal only 9·6 per cent. exercised the franchise and in the United Provinces only 4·5 per cent.

The composition of the Council of State, save for the appearance of a political party already described, has varied little at each election. Landholders who numbered 17 in the first Council and 16 in the second form the most numerous single class and comprise half the elected element. The first Council included 9 business men, the second 10. Lawyers were not numerous. Four were members of the first Council and 6 are members of the second. Landholders form about one-fourth of the Legislative Assembly. They numbered 25 in the first Assembly, 26 in the second and 30 in the third. In that House the most important single class is the lawyers who, in 1920, numbered 45, in 1923, 42 and in 1926, 38. There were no journalists in the first Assembly but 8 or 9 were returned to the second and third. Business men in each of the three Assemblies have numbered 16 or 17.

Nomination.

6. The presence of an important element in both chambers is secured by nomination by the Governor General. In the case of the Council of State the nominated members including the President number 27, and the only restrictions on the discretion of the Governor General are that not more than 20 officials may be nominated and that one person must be nominated as the result of an election held in Berar. In the first Council of State the nominated official members included 13 officials of the Government of India and 6 officials from the provinces. But in the second Council of State the Government of India representation was reduced to 10 and the number of non-officials nominated was increased from 6 to 9. In one important particular nomination to the Legislative Assembly differs from nomination to the Council of State. Of the 41 members nominated by the Governor General to the lower House, it is a statutory obligation that 26 shall be officials. The practice of His Excellency has been to nominate 14 Government of India officials. The nominated members in the first Assembly included the President, 13 Government of India officials, 12 official representatives from provinces and 14 non-officials. When the appointed President gave way to an elected President the number of Government of India officials introduced by nomination was raised to 14. The practice of nomination of non-officials to both chambers has been to employ this means to adjust inequalities and supplement defects in representation. In this way the Sikh community, Anglo-Indians, Indian Christians, labour, the depressed classes, the North-West Frontier Province, European commerce and the Indian Army have secured representation, and prominent representatives of the country, who have been unable to enter through election, have been introduced into both chambers.

Contact of the legislature with the electorate.

7. The conditions described above under which members are returned to the legislature and under which that legislature has done its work make it clear that at least in the case of the Assembly no regular contact between members and constituencies

and no control by the latter of the former in matters of detail can as a general rule be expected. There is accordingly no systematic contact between voter and member, no touring of constituencies between elections, and no endeavour to explain to constituents what the action of the members has been and why it has been taken. In fact, the relations of the Assembly are with the general public rather than with the electorate. Members are concerned more with political and communal associations than with their constituencies. There are indeed on record occasions where a member of the Assembly has moved a resolution not as the representative of his constituency nor as a member of any party in the House but as a member of an outside communal association such as the All-India Muslim League. The chief methods of contact between the members of the legislature and those outside whose opinions have value are the press and political associations. It is they rather than the constituencies who sway the course followed by the House. On highly technical matters with which special interests such as the millowners, trade organisations and industries are concerned members are no doubt brought under the influence of the particular associations of those interests, but in general it is true that the relations of the House are much less with their constituencies than with the general public through the press and with political and communal associations. There are, however, two methods in which the Indian legislature endeavours to bring particular matters to decision in the light of popular wishes. It is the practice to circulate for popular criticism bills on which the legislature wishes to be informed in this manner. In some cases circulation is undertaken by Government in anticipation of the wishes of the legislature. In other cases bills are circulated by Government under instructions of the legislature. In either case the method employed is to send them out to local Governments with instructions to consult those who are likely to be able to offer useful opinion. The channels of circulation are well established. Bills usually filter in this way down to districts throughout India and are also submitted to Bar associations throughout the country and to other associations which appear likely to be interested in the subject matter. In this way a large volume of interested opinion is obtained and very wide publicity is given to the proposals which the legislature has under consideration. A second method is the receipt of petitions. At an early stage the Indian legislature amended its standing orders so as to permit the presentation of petitions relating to Bills. The model is that of the procedure of the House of Commons, and a Committee on petitions is constituted at the commencement of each session. Since 1924, 1,187 petitions (with 30,839 signatures) have been received by the Legislative Assembly. These petitions related to the Age of Consent Bill, the Indian Currency Bill and the Children's Protection Bill. No petitions have been received by the Council of State. The practice is that important Bills are first introduced in the Legislative Assembly and the popular chamber is everywhere the House in which petitions are mostly presented.

Legislation.

Government measures—Rejection, withdrawal and certification.

8. The legislative activities of the reformed Indian Legislature are illustrative not only of its attitude towards the practical requirements of the country and towards the proposals of the executive, but also of the problems which the new conditions have presented for solution and of the directions in which private members have considered amendment of the law to be necessary. Since 1921, when the Indian Legislature came into being, 199 Government measures have received its approval. Only five Government Bills were either rejected or withdrawn as a result of the hostile attitude of the Legislative Assembly and on only four occasions did the Governor General have recourse to certification in order to secure necessary legislation. The five Bills with which Government was unable to proceed were not measures of great importance. The Indian Passport (Amendment) Bill was abandoned in 1924 because the Assembly, having by inadvertence passed the second reading without consideration of the principles of the Bill, was reluctant to proceed to a detailed consideration of its provisions. In the same year the Indian Tolls Bill, which had passed through the Council of State, was thrown out by the Assembly, apparently by way of protest against the President's ruling that amendments designed to alter the law cannot be moved to a consolidation Bill. In 1927 the Assembly refused to amend the Code of Civil Procedure, first in order to restrict revision of interlocutory orders, and, again, in order to limit second appeals. In the same year Government withdrew the Volunteer Police Bill which had been received with suspicion or with actual opposition in the Assembly.

The Bills certified by the Governor General were the Finance Acts of 1923 and 1924, the Indian States (Protection against Disaffection) Act, 1922, and the Bengal Criminal Law Amendment (Supplementary) Act, 1925. The Finance Acts will be dealt with in connection with the attitude of the Legislature towards the executive's proposals for ways and means. The Indian States Act was necessitated by the repeal of the Press Act, 1910, which contained provisions safeguarding Ruling Princes and Chiefs against attacks by the Press in British India, and it proposed to continue these safeguards. The Bengal Criminal Law Amendment Act arose out of measures to deal with criminal and revolutionary conspiracy in Bengal. In October, 1924, the Governor General had found it necessary to promulgate the Bengal Criminal Law Amendment Ordinance which had force for 6 months only. On the expiry of that term the provisions of the Ordinance were continued by an Act made by the Governor of Bengal under section 72E of the Government of India Act. The provisions which were *ultra vires* of the local legislature because of their application outside the Province of Bengal and because of their relation to the powers of the High Court were proposed to be enacted in the Central Legislature in this Bill.

On all the occasions on which certification took place, a Bill was originally introduced without a recommendation in the Legislative Assembly. In the case of the Indian States (Protection against Disaffection) Act, 1922, the Assembly brought the power to certify into existence at the initial stage by refusing leave to introduce. The Governor General thereupon certified the Bill and it was laid with a recommendation before the Council of State, who passed it without amendment. In the case of the Indian Finance Act, 1923, the Assembly granted leave to introduce and took the Bill into consideration, but only passed it after carrying amendments fatal to the Bill. The Bill, as passed by the Legislative Assembly, was laid in the Council of State in accordance with the ordinary rule, and the Governor General recommended the Council of State to pass the Bill with amendments restoring it to its original form. The Council of State passed the Bill in the form recommended and, again in accordance with the ordinary rule, the concurrence of the Assembly was sought to the amendments, the Governor General at the same time recommending the Assembly to pass the Bill in the form in which it had been passed by the Council of State. By refusing its concurrence in the amendments made by the Council of State, the Assembly failed to pass the Bill in the form recommended and thus brought the power to certify into existence. The Governor General duly certified, and the Bill, having already been passed by the Council of State in the form recommended, forthwith became an Act. In the interval between the certification of the Finance Act, 1923, and the next occasion on which the power was used, provision had been inserted in the Indian Legislative Rules with the two-fold object of regulating procedure in connection with Bills forming the subject of a recommendation under section 67B and of preventing the exercise of powers thereunder being obstructed by the carrying of dilatory motions. The rules proposed by the Government of India contemplated the possibility of deferring the Governor General's recommendation to any stage of the progress of the Bill, either in the original chamber or in the other chamber, in accordance as considerations of convenience and policy might dictate. The Secretary of State, however, notwithstanding the fact that the recommendation in the case of the Finance Act, 1923, had been deferred till the Bill reached the other chamber and that a non-official challenge of the legality of this procedure had been convincingly refuted, deferred to that challenge to the extent of revising the proposals of the Government of India in such a manner as to eliminate the provisions relating to a deferred recommendation and to necessitate a recommendation arising out of the carrying of a hostile motion by the originating chamber being made before the Bill left that Chamber. The rules as made, therefore, eliminated the possibility of repeating the procedure adopted in the case of the Finance Act, 1923, and required the situation arising on that occasion to be dealt with in accordance with the procedure adopted on the two subsequent occasions on which the power was used. In the case of the Finance Act, 1924,

the Assembly granted leave to introduce the Bill but rejected the motion to take it into consideration. The Governor General thereupon recommended the Assembly to pass a Bill in the form of the original Bill. Leave to introduce the recommended Bill was sought *de novo*, the operation of the rule prohibiting repetition of motions being ousted by a provision included in the rules to which reference has been made. The Assembly refused leave and the Bill was certified and recommended to the Council of State who passed it in the form recommended. In the case of the Bengal Criminal Law Amendment (Supplementary) Act, 1925, the Assembly granted leave to introduce and passed the consideration motion, but thereafter carried amendments omitting provisions essential to the Bill. In accordance with the procedure contemplated in the new rules, the Member in charge thereupon refrained from moving the motion that the Bill as amended be passed, and the Governor General recommended to the Assembly to pass the Bill in the form in which it had been introduced. The Member in charge then moved, in accordance with another provision in the new rules, the amendments necessary to bring the Bill from the form to which the Assembly had amended it into the form recommended. The Assembly rejected the amendments and thereby failed to pass the Bill in the form recommended. The Governor General thereupon certified the Bill in the form in which it had been recommended and recommended the Council of State to pass it in that form, and the Council of State duly passed the Bill without amendment. It will be seen, therefore, that on all the occasions on which the power of certification has been used the Council of State has associated itself with the Governor General by passing the Bill in question in the form recommended by him.

The nature of Government legislation.

9. The large number of measures passed by the Indian Legislature cover a wide field, but it is possible to group them broadly under main heads.

Much the most numerous class of measures, but perhaps the class least important for present purposes, is the class of measures affecting Civil Law. Many of these measures had their origin in the enquiries by the Civil Justice Committee into methods for the disposal of civil litigation, but they also include statutes for the consolidation and amendment of the law of succession, the improvement of the law of insolvency, and the reorganization of Indian Bars.

The attitude of the Legislature towards measures dealing with Law and Order was on the whole unfavourable to greater stringency. The competence of chartered High Courts to punish contempts of subordinate courts, which had been long in question, was established, and Chief Courts were given power to punish contempts of themselves. Documents tending to exacerbate communal or religious feeling were made liable to forfeiture and attacks on religion and religious beliefs were made criminal. Vagrants may now be awarded rigorous imprisonment. But, on the other hand, the quantum of punishment for contempt, which had

previously been in the sole discretion of the Court, was limited. Special laws which armed the executive with powers in certain emergencies were scrutinized and by the enactment of Bills introduced by Government almost completely repealed, the statute providing for the regulation of the press was removed from the statute book, and a systematic revision of the Criminal Procedure Code resulted not only in the removal of discriminations between European British subjects and Indians in criminal trials and proceedings but also in a number of amendments in criminal procedure which tend to increase facilities of defence rather than of prosecution. Legislation of the latter nature was the result of the labours of three Committees of the Legislature appointed by Government in response to non-official resolutions. These committees were the Special Laws Committee, the Press Laws Committee and the Racial Distinctions Committee, and at least in the case of the revision of the Criminal Procedure Code the legislation took its final shape largely as the result of discussions and compromises in Select Committees of the Assembly.

A very important class of Acts, between 30 and 40 in number, is concerned with taxation and owes its existence to the financial necessities of Government and to the deliberate adoption of a new fiscal policy. As will be seen later, the early years of the Reforms were years of great financial embarrassment to Government. Means of balancing the Budget had to be discovered, and a method was adopted which resulted in a great extension of the financial control exercised by the Legislature. The method adopted was the fixation of the rates of taxation for each financial year by an annual Finance Act. Concurrently with this revolution in the practice of financial legislation went a revolution in India's fiscal policy. In 1923 a resolution was moved in the Assembly recommending the adoption of a policy of protection of Indian industries. The resolution in an amended form was accepted by Government, and the fiscal policy of India is now one of discriminating protection, being directed towards fostering the development of industries in India subject to the safeguards recommended in paragraph 97 of the report of the Indian Fiscal Commission. A Tariff Board has been set up by which demands for protection are fully examined before they are considered by the Government of India. Legislation for revenue purposes alone included a series of Acts dealing with the administration of taxation of income, Acts dealing with stamps and salt and the Finance Acts. The more important measures of taxation of a protective nature gave protection to the steel industry, to paper-making, and the cotton industry. Similar legislation imposed cesses for the financing of research concerning shellac, indigo and the growing, marketing and manufacture of cotton.

On the cognate subjects of currency and banking Government were able to secure the passage of several important measures, and two important groups of Acts are evidence of India's greater interest in industry and in commercial arrangements.

Industrial legislation was concerned not only with the conditions of particular industries such as electrical undertakings, factories, mines, cotton ginning and pressing and tea gardens, but also with the position of labour generally. The Indian Trade Unions Act, 1926, regulated and protected associations of workers. The Workmen's Compensation Act, 1923, gave the workman advantages which he had not previously enjoyed and the Workmen's Breach of Contract (Repealing) Act, 1925, relieved him of restraints on freedom of contract to which he had been subject for more than half a century.

Commercial legislation regulated various matters concerned with the administration of lighthouses, gave effect to international conventions and settled certain questions relating to the carriage of goods.

Other matters in which sections of the legislature were interested and on which legislation was effected were the improvement of conditions under which pilgrims visit holy places by sea, the reorganization of cantonment administration, the inspection of emigrants, the control of emigration, naturalization and the administration of certain Universities. The social legislation undertaken by Government is contained in nine measures all of which save one are connected with the position of women. Effect was given to international conventions regarding the traffic in women and children, the procuration of minor girls and the suppression of obscene publications. In the last named case the legislature made exception in favour of publications kept or used for religious purposes. The age of consent within and without the marital relation was raised.

The conclusion is that the legislature has lent a discriminating support to the measures which Government in the ordinary course of administration found it necessary to propose, and has given a new prominence, whether because of its own prepossessions or because of India's awakening interest in fresh activities, to particular classes of legislation.

Private Member's legislation.

10. In a legislature of which lawyers are so numerous and so influential an element non-official attempts at legislation are to be expected. The desire to be the author of a measure placed on the statute book is strong in many members' breasts. Individual members and not political parties have been responsible for most of the proposals now to be described. In all, 95 bills have been introduced by private members, and their origin in forensic practice is indicated by the subjects with which they dealt. As many as 49 related to matters of civil law and 19 to matters connected with law and order. Only 7 dealt with social matters, which are an appropriate sphere of private member's legislation. In general, highly technical matters, except legal matters, were avoided by members for they have no facilities for drawing up Bills of that nature, and the proposals made were usually of limited scope.

The facilities afforded for legislation of this kind were not ungenerous. In the Assembly out of 405 sittings 308 were appropriated to Government business and 97 to non-official business. For non-official Bills 35 days were allotted. In the Council of State, where non-official resolutions and non-official Bills alike may be discussed on a non-official day, 157 days were appropriated to Government business and 101 to non-official business. These facilities were obviously adequate in a legislature which is lukewarm towards private members' Bills. The Bills which were rejected or withdrawn or which lapsed numbered 69. The pending list is 11 and only 15 have been passed. Of the two Acts connected with law and order one enables licensed Mukhtars to practise in criminal courts as a matter of right; the second, a purely consolidating measure, is the work of the Statute Law Revision Committee and is therefore, not a true non-official Bill, although introduced by a non-official member. A third Act permits political associations to register themselves as societies, and a fourth admits of the marriage by civil contract of persons professing particular religions. An Act, more important politically, permits retaliation in India against the nationals of a country imposing disabilities on its inhabitants of Indian domicile. Two Acts passed at the instance of the Statute Law Revision Committee but only technically private members' Bills consolidate Forest Law and the Law of Succession. The remaining Acts, eight in number, are concerned with particular matters of civil law, but one, which secures the registration of endowments made by Muslims and the rendition of audited accounts is of more importance.

The Bills which were unsuccessful include five which were passed by the Assembly against the opposition of Government, but were rejected by the Council of State. This was the fate of Diwan Bahadur T. Rangachariar's Bill regarding the use of firearms in the suppression of unlawful assemblies; of Mr. V. J. Patel's Special Laws Repeal Bill; of Sir Hari Singh Gour's two Bills to repeal or amend the Criminal Law Amendment Act; and of Mr. Neogy's Bill to prohibit reservation of railway compartments for particular communities. Government remained neutral in the discussions on the Exclusion from Inheritance Bill, a measure affecting the personal law of Hindus, which the Assembly passed but the Council of State rejected.

Sixty-two Bills which private members proposed to introduce required the previous sanction* of the Governor General. Sanction was accorded in 36 cases and withheld in 26 cases. The most frequent ground on which sanction was refused was that the proposed Bill sought to regulate provincial subjects. There were fourteen cases of this nature and in them members of the Indian Legislature sought to interfere not only with the provincial administration of reserved subjects but with such transferred subjects as public health, religious and charitable endowments, the development of industries and co-operative societies. Three Bills

* Section 67 (2) of the Government of India Act.

affecting the public debt or revenues, four affecting religion or religious rites and usages, two affecting the discipline of His Majesty's forces and two affecting the relations of Government with foreign princes or States failed to receive sanction. Grounds of public policy were held to justify refusal in the case of a Bill proposed by the Leader of Opposition which sought to repeal an Ordinance which the Governor General had just promulgated to meet a grave emergency in Bengal. But the criteria which were decisive in these cases were not applied automatically. For instance, although sanction has been withheld from Bills affecting the public debt or revenues, yet it has been accorded to the introduction of other Bills of the same nature, such as Bills seeking to re-establish the former ratio between the rupee and the sovereign or altering the ratio at which notes are issued from the Paper Currency Reserve against gold bullion. It has not been sought always to debar private members from introducing money bills which have not Government approval, but sanction to introduction is withheld where the intricacy or the technical reactions of proposals are of such a character as to place the matter definitely in the category of subjects which a non-official cannot ordinarily touch without trespassing upon the province of the Executive Government. The Governor General's sanction has not been taken as in any way implying approval of the merits of the proposals of a Bill. It has been withheld in order to restrain the introduction of legislation which is beyond the legitimate jurisdiction of the legislature, or which from its nature requires the initiation of Government, and to prevent discussions which would be inadvisable in the public interest as being *contra bonos mores* or opposed to public policy.

The Governor General as part of the Legislature.

11. The assent of the Governor General has never been withheld from a Bill passed by both chambers of the Indian Legislature, nor has any such Bill been returned for reconsideration. No use has been made of the powers to refer a matter for decision to a joint sitting of both chambers. The power of the Crown to disallow Acts of the Indian Legislature has not been exercised.

Financial.

The Standing Finance Committee.

12. The concern of the Legislature with the annual financial arrangements normally begins with the preparation of the expenditure estimates. On occasion, questions of financial policy come before it on resolutions moved by Government with a view to its adoption of principles in anticipation of future financial proposals. But in general its first contact with matters of finance is when expenditure proposals are under preparation. In the strict letter of the constitution expenditure estimates are the concern of the executive alone, but as early as February 1921, Government invited the Assembly to co-operate with them through a Standing Finance Committee in framing the estimates. The object which Government had in view was to secure in the Assembly well-in-

formed criticism and possibly support in the budget discussions by enabling the Committee to examine the details of the civil estimates with the officers of the departments concerned.

The committee is not a statutory body. It is not mentioned in the Act, or in the rules thereunder or in the Standing Orders of the Legislative Assembly. But it is a well-established practice that Government should move the Legislative Assembly each year to elect 14 of its members, to whom is added one member by nomination of the Governor General, to form a Standing Finance Committee. The nominated member is now, in spite of an earlier contrary practice, always the Finance Member of the Governor General's Council, and he is invariably the Chairman of the Committee. The elected members are chosen in the same manner as the members of the Public Accounts Committee, *i.e.*, by the method of the single transferable vote, except that for elections to the Standing Finance Committee all members of the Assembly and not the non-official members only have a vote. There are usually more candidates for election to the Committee than there are seats to fill, but membership does not appear to be more than moderately valued. On occasion prominent members of the Assembly have served on the Committee, but the majority of members are usually backbenchers. The vagaries of the ballot have militated against the election of the same members for successive years and no convention has grown up towards securing continuity of membership. The present committee contains 11 members who have not served on it before. The number of meetings held in a year has varied between 9 and 27, but shows a tendency to increase. The normal practice is to meet for about a week just before the beginning of the two regular sessions of the Legislature each year. Occasional extra meetings are held when necessary during the session, but it has been found difficult to spare the time needed for meetings while the Assembly is in session. The average attendance is about half the strength of the Committee.

When the Standing Finance Committee was first appointed in 1921, no final definition of its functions was attempted. Government, however, indicated three functions which it would perform and anticipated that the Committee would, in course of time, take up a very much wider scope of work on behalf of the Assembly. The Committee, in the first place, was to scrutinize, shortly before the main budget was placed on the table of the Assembly, the details of the several Civil Estimates in advance of the discussion in the House. It would, in the second place, deal with excess or supplementary demands on behalf of the Assembly before they were laid before the House. The third function was, during the course of the year, to deal with such schemes for fresh expenditure, put forward by the Departments of the Government of India, as would be sufficiently large to have any influence on the budget. When the Committee came to be reappointed in 1922, the Assembly insisted on a clearer definition of its functions. The Finance

Member indicated certain items which it would be impossible for the Government to submit to the Committee. These items included military expenditure, political expenditure, expenditure over which the Secretary of State retains his own control, expenditure connected with confidential negotiations and certain items of expenditure of an emergency nature. But Government offered no opposition to the definition of the functions of the Committee and they were, therefore, settled under four heads. These heads are (*a*) to scrutinize all proposals for new votable expenditure in all Departments of the Government of India; (*b*) to sanction allotments out of lump sum grants; (*c*) to suggest retrenchment and economy in expenditure; and (*d*) generally to assist the Finance Department of the Government of India by advising on such matters as may be referred to it, by that Department. These functions have never been redefined by the Assembly. In debate in February, 1926, they received fresh prominence and great stress was laid upon them. Meanwhile, however, in 1923 the Committee itself, by agreement with the Finance Department, limited the exercise in practice of their first function. According to the letter of the definition Government were bound to place before the Committee all proposals for new expenditure. Experience had, however, shown that literal adherence to this principle would lead to administrative inconvenience, and in the earlier stages the members of the Committee had themselves complained that they were overwhelmed with large numbers of references on unimportant details. The Committee, therefore, approved principles laid down by the Finance Department which leave to administrative departments and to the Finance Department, without reference to the Committee, the decisions on proposals of minor importance or in cases of emergency.

Accordingly, the Committee is not only a Committee of scrutiny for votable expenditure. It is also a general retrenchment committee. It is an advisory body and it has the particular duty of advising the Finance Department on such cases as may be referred to it. Even in the case of allotments out of lump sum grants it has no final powers of granting or withholding sanction. In practice, however, the Committee does not exercise all these functions. It does not suggest economies in habitual expenditure nor does it undertake a general review of the budget, which, indeed, is not submitted to it. For the performance of such functions it is not favourably situated. It has no officer of its own who can draw its attention to portions of expenditure affording scope for retrenchment, and, seeing that the proposals put before the Committee have previously been examined and approved by the Finance Department, it cannot rely on that Department for criticism hostile to the proposed expenditure. Experience shows that in new proposals for expenditure, which alone are submitted to the Committee, there is less scope for economy than in the standing charges, where a change of circumstances may afford room for reduction of expenditure or for the exclusion of charges which have become obsolete.

Of necessity, therefore, the Committee has confined its activity to a scrutiny of proposals for new votable expenditure whether these proposals are to be included in the budget or supplementary demands. It is not, however, concerned with railway expenditure which is scrutinized by a separate Standing Committee of the Assembly known as the Standing Finance Committee for Railways, nor does it deal with those items which in 1922 were described as outside their proper sphere. Experience has indeed shown that the Standing Finance Committee cannot cover and could not be reasonably expected to cover the wide field which Government at first proposed to entrust to it. But within the limits imposed upon it by practical necessities it has acted as a check upon fresh expenditure, and it has saved the Assembly from directing its debates to matters of detail. Expenditure proposals have frequently been suspended, modified or abandoned in face of doubts expressed by the Committee. The executive have never persisted in presenting to the Assembly demands against which the Committee has recorded its advice, and the Assembly has never directly dissented from its views. The Committee has usually taken a reasonable and intelligent view of its duties and has proved itself to be a valuable institution. It does not report to the Assembly, but its proceedings are printed under the orders of the Government of India in the Finance Department and copies are supplied by the members of the Assembly and to the Departments of the Government of India. It has, in this way, succeeded in infusing in the Assembly some degree of familiarity with financial administration. And as in practice its proceedings are not confidential, its deliberations are reported in the press with a resultant growth in public acquaintance with the details of the Government finances.

Presentation of the Budget.

13. The budget is presented to the Legislative Assembly by the Finance Member. His speech on this occasion deals, among other things, with the revised estimates of the revenue and expenditure of the year about to close, the revenue and expenditure estimates for the coming year, variations in the ways and means estimate of the year about to close from the plan expounded at the previous budget session, and the ways and means estimate of the coming year. On the same day the Finance Bill is introduced in the Assembly, and the Budget in the Council of State.

A very important convention reached by agreement between the executive and the Assembly has resulted in a strengthening of the control of the latter over the great field of railway finance. In 1924 Government placed before the Assembly proposals for the separation of railway and general finance, and later they accepted the modifications and suggestions made by a Committee to which the Assembly had referred the consideration of the whole matter. These suggestions were to the effect that the estimates of railway expenditure should be discussed with a Standing Finance Committee for Railways prior to the discussion of the demands for grants and that the railway budget should be presented to the

Assembly in advance of the general budget with an allotment of separate days for its discussion. Accordingly, this arrangement, which is treated as experimental for the first three years and is subject to periodic revision, was introduced from the budget of 1925. It rests upon no statutory foundation but is an important convention to the great advantage of the legislature.

This Standing Finance Committee for Railways is elected annually, and, under the convention, consists of one nominated official member of the Legislative Assembly (in practice the Financial Commissioner of Railways) as Chairman and eleven members elected by the Legislative Assembly from their body. This committee, unlike the General Standing Finance Committee, is convened not only when the legislature is in session, but also at fairly regular intervals throughout the year; and it has become the practice to hold the intermediate meetings either at large commercial or railway centres, or at places where important railway works are in progress or projected, instead of at the headquarters of Government. The opportunity is then taken of showing members of the committee something of the practical side of railway working. For example, in 1927 meetings were held at Calcutta, Bombay, Madras and Erode, during the course of which the committee inspected locomotive and carriage and wagon workshops, the working of the Clearing House, and the proposed site of a large railway yard. Apart from the budget proposals of the Government, all proposals for the construction of new lines and for the creation of new permanent superior posts, and generally all important proposals for new expenditure are placed before this committee for concurrence; while in practice the Chairman discusses with the members of the committee matters of importance which do not, under the strict terms of the convention, necessarily fall within their province. The result has been to some extent the association of the committee with the Government in the more important matters of railway construction and administration, while through the work of the committee, minutes of whose proceedings are available to the Assembly, almost every branch of railway administration has been brought indirectly under the Assembly's scrutiny.

While the detailed financial control of the Assembly has thus been left to the Standing Finance Committee, the Assembly has used the occasion of the budget debates to ventilate grievances and generally to criticise the railway policy of the Government. Since the separation it has been the practice of the Government to allot one day for the general discussion of the railway budget in each chamber and four days for the discussion of the demands for grants in the Legislative Assembly.

General discussion of the Budget.

14. When the Budget has been presented in both Chambers a period of three or four days is allowed to elapse during which members may master its contents. It is then subjected in both Houses to a general discussion in which, not its details, but the general principles of all heads of revenue and expenditure may be

discussed. No motion however may be moved at this stage. In three important particulars this stage affords the legislature a peculiar opportunity of influencing the policy or action of Government.

In the first place, this is the occasion on which the revenue estimates of Government may be criticised. These estimates are not voted, and, although they have a relevance to the ways and means proposals in the Finance Bill, and are occasionally criticised during discussions of demands for subjects such as customs, inland revenue and salt, they do not come direct under consideration on any occasion but this. They do not fall within the purview of any Committee of the Legislature. Nevertheless it is very uncommon for members joining in the general discussion of the budget to devote attention to them. The proper estimating of receipts is left entirely to the Executive Government.

In the second place, on this occasion the Assembly, by what is almost a convention, may and in practice does discuss the programme of Government for non-voted expenditure. It is entirely at the discretion of the Governor General to submit to the general discussion of the legislature the non-voted heads of expenditure. Nevertheless, it has been His Excellency's unbroken practice to communicate to the Legislature permission to discuss these items also. The Legislature readily and freely avails itself of the permission especially in order to criticise non-voted expenditure on defence. It seldom devotes attention to the non-voted expenditure of the Government of India in the Foreign and Political Department.

In the third place, this is the only regular occasion on which the legislature can affect the loan policy of Government, except in one particular to be noticed presently. The expenditure from loan funds like other expenditure, unless of course it is especially exempted, is subject to the vote of the Assembly, but the decision to raise loans and the detailed arrangements for doing so are at the sole discretion of the Executive Government. The borrowing programme of Government does not come under review at the demand stage, for interest and sinking fund charges on loans are non-voted expenditure, nor is it, as in England, embodied in a Bill. But it may be discussed in the general discussion of the Budget. Actually it has attracted very little attention even from the representatives of commercial interests in the two Chambers. This is no doubt partly due to the steady reduction of India's unproductive debt and the growing improvement in its credit in world markets. But it may also be due in part to a feeling, not uncommon in the Assembly, that reduction of taxation should be effected even at the cost of increasing India's capital liabilities or raiding the sinking fund.

The particular aspect of Government's loan policy which comes under review at a time other than the general discussion of the budget may conveniently be mentioned here, although more logically it might be described in connection with the grant of supply

by the Legislative Assembly. In 1925 the Government of India inaugurated a quinquennial programme for the reduction or avoidance of debt. That programme charged the revenues of India in each year with an amount calculated from a fixed amount, increased, when necessary, by a sum proportionate to the volume of debt outstanding in that year in excess of the debt outstanding on 31st March 1923. The annual charge on revenues is, therefore, not necessarily commensurate with the amounts which must in each year come in course of payment by way of sinking funds in redemption of debt. These amounts are obligatory payments and are non-voted. When they are in excess of the annual charge under the Debt Redemption Scheme the balance is charged to capital and is non-voted. When, however, as is usual, they are short of the annual charge, the balance represents the provision that is to be devoted to the avoidance of new borrowing or the redemption or repayment of such other debt as the Governor General in Council may think fit. In the latter event the balance, on a strict interpretation of the Government of India Act, if not according to its intention, is voted supply, and the Assembly can exercise its authority over this portion of Government's loan policy and its influence over the whole.

In practice the general discussion of the budget in both chambers is political rather than financial. Appropriate use of this occasion has in the past been made to discuss the pitch of military expenditure, the justification for the salt tax and the cotton excise duty, the need for the setting up an Indian scale of expenditure and the Indianization of services. But generally discussion has centred round the reforms and the " national demand " and much of it bears no reference to the actual contents of the budget.

Demands.

15. The demands of Government for supply are presented to the Legislature in the form of motions in the Assembly. The Council of State has no concern with supply, and therefore Appropriation Bills are unknown. The decisions of the Assembly on demand motions have the same force as they would have if embodied in a Bill. Supply begins and ends with the presentation and voting of demands in the Assembly. But it is only demands for voted supply which are presented.

The distinction between voted and non-voted supply is one which the Legislative Assembly not unnaturally resents and several attempts have been made to obliterate it. The most direct attempt was that made in a resolution accepted by the Assembly on the 26th January 1922. It was then contended that just as it is in the discretion of the Governor General to submit all expenditure estimates to general discussion in the Legislative Chambers so it is in his discretion to submit all classes of proposed expenditure to the vote of the Assembly, and it was sought to urge the Governor General in the exercise of that supposed discretion to abolish the distinction between votable and non-votable items in the budget. Government were unable to accept the contention that the distinction is other than mandatory, and when the resolution had been

passed they had the opinion of the Law Officers of the Crown taken. The Law Officers gave it as their opinion that the Governor General is not competent to direct that items classified as non-voted shall be submitted to the vote of the Assembly and this view is now embodied in the Government of India (Civil Service) Act, 1925.

A more indirect attempt to obliterate the distinction was made in 1923. In the preceding year Government had accepted a suggestion that a gross reduction might be made in the demand under the head "General Administration." No cut was made by the House, but in effect a general reduction of the grants was agreed upon. It was left to Government to distribute the reduction, and Government effected the agreed reduction by altering both voted and non-voted items. Their action was made the basis for a demand in 1923 that voted supply might be reduced by the Assembly in order to force Government to reduce their non-voted expenditure so as to make up deficiencies in voted supply. The feeling of the Assembly appeared to be that Government would be justified in exceeding supply voted by the Assembly if they could show a corresponding or greater reduction in non-voted expenditure. In effect the Assembly sought to establish control over non-voted expenditure at the expense of conceding to Government some degree of freedom of virement between major heads of appropriation. Government naturally took its stand on the clear constitutional position that the Executive may, if it chooses, effect economies in non-votable expenditure but if it wishes to spend on votable expenditure more than the Assembly has granted it must come before the House with a demand for a Supplementary Grant. When the Assembly reduces the demand by a particular amount Government has to keep the expenditure on the votable item within the amount voted by the Assembly. The discussion concluded with the refusal of Government to accept greater freedom of reappropriation, and with the ruling of the President that the suggested procedure was not admissible. What the Assembly gained on this occasion was the convention that at the supply stage occasion may be made for questioning and discussing non-votable expenditure by moving a nominal cut on votable expenditure. The now recognized method of attacking non-voted expenditure is the reduction of the voted supply ancillary to and necessary for it. For instance, the salaries of the Members of the Council of the Governor General are non-voted. They may, however, be attacked indirectly on the demand for their touring expenses part of which are treated as voted. Expenditure on defence is non-voted, but the army expenditure may be attacked by reduction of the voted expenditure on the secretariat establishment of the Army Department.

In effect the statutory restrictions on the financial authority of the Assembly in the matter of supply have proved to be inelastic; on the other hand, its sphere of influence has steadily grown. The proportions of voted and non-voted expenditure are roughly equal.

Grants.

16. The maximum number of days which can be allotted to the discussion of demands in the Assembly is 15. In practice about four days for the Railways and five days for the other grants are set apart for the purpose. At the end of that period the guillotine falls, and outstanding demands are put to the vote without discussion. Within the time thus available a discussion of each of the 65 demands is usually impossible, and has never, save in 1921, been effected. Discussion has tended more and more to spread itself over a few demands only, and in the last three years all but 13, 14 and 5 grants respectively have been passed without debate. The order in which demands are presented is, therefore, of importance. In 1924 a practice was adopted whereby the Leader of the House confers informally with non-official members of the various parties and ascertains the order in which they desire demands to be brought under discussion. It has, however, been found difficult to make this practice fully effective in a Chamber where parties are numerous and party leaders are not always ready to agree as to the importance and consequence of priority of demands.

The fact is that each Assembly has approached demands in a different spirit. The first Assembly which represented moderate political opinion and had to deal with deficit budgets was mainly concerned with retrenchment. It had two objects in view. Being aware of the ways and means programme of Government laid bare in the Budget Statement, it viewed the voting of demands as furnishing it with an opportunity, by effecting retrenchment, to reduce the deficit and consequently the volume of fresh taxation. Accordingly it did not consider the demands entirely on their merits. Again, finding itself debarred from voting on such considerable heads of expenditure as defence or the salaries of officers appointed by the Secretary of State, it directed a criticism not infrequently unreasonable in its nature and disproportionate in its volume against those remaining items of civil expenditure which were within its vote. In these circumstances the votes on demands for grants did not assume the aspect of a true voting of supply.

But it was possible to secure more accord between the Executive and the Assembly than was attained in succeeding Assemblies. The first Assembly made cuts of Rs. 129 lakhs, Rs. 95¾ lakhs and Rs. 176 lakhs in the three budgets with which it dealt. The earlier cuts were accepted by Government but in 1923 the powers of the Governor General in Council were invoked in order to restore provision of Rs. 114 lakhs for railway annuities which the Assembly wished to transfer from revenue to capital, and Rs. 3 lakhs for the Public Services Commission of whose appointment the Assembly disapproved. The cuts which were accepted aimed at effecting economy or controlling the administrative policy of Government.

Far different was the spirit of the Second Assembly which now included the Swaraj party, vowed to wreck the constitution from

within. Driven in 1924 by this party, the Assembly proceeded to reject every demand which came up for sanction. The process was not carried to the bitter end but cuts of Rs. 472 lakhs were made, all of which were restored by the Governor General in Council except a nominal cut of Rs. 100 under Forests which had reference to the training of candidates for and the Indianization of the Indian Forest Service and Rs. 25 lakhs for working expenses of Railways made in order to enforce economy. At the other end of the scale and the term of the Assembly, in 1926, when the Swaraj party had performed the political manœuvre of "the walk-out," the General Budget passed unscathed. But the Railway budget was reduced by the Assembly. The provision of Rs. 9,68,000 for the Railway Board was refused in order to mark disapproval of an alleged slow progress of Indianization of the administration, the extension of the Lee Commission concessions to officers of Company-managed railways and the non-appointment of an Indian as a Member of the Board. Rupees 20 lakhs were cut from the provision for working expenses also as a protest against the extension of these concessions to officers of Company-managed railways. Both demands were restored by the Governor General in Council. In the intermediate year, 1925, the less extreme members of the Assembly had asserted their independence of the Swaraj party. The demands refused amounted to Rs. 163 lakhs of which Rs. 68 lakhs including Rs. 50 lakhs in a supplementary demand fell on the General Budget and Rs. 95 lakhs (round) on the Railway Budget. The only items which the Governor General in Council restored to the General Budget were the demand for the touring expenses of the Members of the Executive Council, which had been refused on the usual political grounds, and the Customs demand which had been refused as a protest against the retention of the Cotton Excise Duty. Government accepted the cut of Rs. 17 lakhs made by the Assembly in order to remove certain expenditure from revenue to loan funds, and did not press the proposed expenditure of Rs. 50 lakhs on Archæology. Nominal cuts under other heads drew attention to specific points. The Railway Budget was cut severely. The provision for the Railway Board was refused for the same reasons as in 1926 but was subsequently obtained on a supplementary demand. Rupees 37 lakhs were cut from working expenses—Administration—as a protest against the Lee concessions, Rs. 100 to mark disapproval of the rate of Indianisation of Railway services and Rs. 2 lakhs to remove the supply for the London Board's establishment. These cuts were not restored. Government accepted the exclusion of the sum of Rs. 35 lakhs provided for writing off the amount of depreciation in the value of stores.

The third Assembly, in the session of 1927, refused the demands for the Executive Council and the Railway Board on the usual grounds, and the provision for the Army Department as a protest against the pitch and the non-votability of Army expenditure. These demands were restored. Nominal cuts were made in the demand for the Posts and Telegraphs Department in order to pro-

test against Telegraph censorship and the system of posting telegrams where there is a congestion of traffic. Supplementary demands have been presented in every Session. Only three such demands, one of which has been mentioned above, have been refused, and none has ever been restored.

Ways and Means.

17. The whole programme of Government for Ways and Means is, as has been explained, submitted to general discussion in the Legislative Chambers. It includes not only revenue and expenditure but also all transactions under capital, debt and remittance heads, and it shows how Government expect to finance all the anticipated outgoings during the coming year. It is, however, only that part of the programme which deals with the provision of funds through taxation which is submitted to the vote. Here we are dealing with both chambers for it is established, in spite of a contrary contention by the Assembly, that under the Government of India Act the Council of State is as competent to deal with money bills as with any other class of legislation. The possibility of throwing open to vote the whole programme for Ways and Means by subjecting it to discussion in the Assembly on resolutions during the budget session has been considered. But the whole subject has been found to be too complicated for this procedure. It is practically impossible for Government to commit itself in advance on any essential point. If, however, it has been found impossible to enlarge the scope of the Chambers' concern with the ways and means a very important step has been taken in the direction of extending its control over the portion with which it is concerned. Prior to the Reforms it had been the custom of Government to put their proposals for taxation before the legislature in separate bills with an undefined term of operation. With the Reforms, Government adopted the practice of embodying all taxation proposals in a single Finance Bill. The Assembly were not slow to seize the opportunity thus presented to it. On the first occasion when it found itself engaged in the consideration of ways and means, namely, on the discussion of the Finance Bill, 1921, it demanded that Government should each year come before it and render an account of their stewardship during the year. This it proposed to effect by limiting the term of each Finance Bill to one year. The Finance Bill, 1921, proposed taxation under a number of Acts, including the Tariff Act. Government were unable to accept the principle of complete fluidity in taxation under the Tariff Act for the consequent uncertainty would be an embarrassment to trade. But they expressed sympathy with the demand in other respects, and they have consistently observed the convention in subsequent years. The Finance Bill, 1921, was amended so as to run, except in the case of tariffs, for one year only, and each successive Finance Bill has been presented to run for twelve months. When the Income Tax Act was subsequently amended it was made practically a procedure Act, and the rates of assessment were left to be fixed annually in the Finance Bill. The convention thus established is important not only because the time limit on powers to collect taxation forces the Executive Government to submit at

regular intervals its whole financial administration to the scrutiny of the Assembly, but also because the resultant elasticity of resources powerfully affects the whole course of administration. Fluid taxation ought to mean that supply is granted with a view primarily to the requirements of the country, and ways and means are provided to cover the supply which has been granted.

The logical results of authorizing the expenditure of money by granting supply has not always been present to the minds of the Legislature. The Finance Bill, 1924, was, for political reasons and at the instance of the Swaraj party, rejected *in toto*. The Governor General recommended it to the Assembly with the salt duty reduced from Rs. 2 to Re. 1-4-0, but the Assembly again refused to pass it. The Bill was then certified by the Governor General and recommended to the Council of State who passed it in the recommended form. The Bill of 1926 was passed as it was introduced, but all other Finance Bills have experienced one vicissitude or another. The Bill of 1921 proposed additional taxation expected to yield Rs. 1,917 lakhs. This was reduced by the Assembly to Rs. 1,832 lakhs and finally settled at Rs. 1,733 lakhs after discussion in the Council of State and further discussion in the Assembly. Here the Assembly acted in the interests of economy. By the Finance Bill of 1922 Government expected to raise additional revenue of Rs. 2,905 lakhs. The Assembly rejected the additional salt tax (Rs. 430 lakhs) and the additional import duty on machinery and cotton manufactures and excise duty on cotton (Rs. 526 lakhs). It passed taxation for Rs. 1,949 lakhs only but agreed to Rs. 302 lakhs interest on the Paper Currency Reserve investments being credited to revenue instead of being appropriated for the reduction of created securities in the Reserve. Here the matter really in dispute was the scale of Army expenditure. Ways and means were refused in order to force a reduction in non-voted expenditure. A compromise was effected. Army estimates were reduced and the taxation proposals curtailed. On both occasions Government acquiesced in the amendments made by the Assembly. But in 1923, when the Assembly rejected the additional salt tax which was expected to yield Rs. 450 lakhs, and again rejected it after it had been embodied in a recommendation by the Governor General and accepted by the Council of State, the Governor General certified the Bill in the form proposed as essential for the interests of India. On this occasion the Assembly acted from political motives and deferred to clamour outside its walls. The salt tax was again the bone of contention in 1925. The Bill proposed, among other things, the fixation of the salt duty at Re. 1-4-0. The Assembly reduced it to Re. 1. The Council of State restored the original figure and the Assembly on reconsideration passed the Bill without further change. The choice here before the Legislature was between an inappreciable relief to the general tax-payer and the reduction of contributions by provincial Governments to central revenues. In 1927 the Assembly reduced the rate of salt tax proposed in the Finance Bill from Re. 1-4-0 to annas 10 per

maund. The higher amount was restored by the Council of State and was then accepted by the Assembly.

The history of these Finance Bills suggests several important general conclusions. First they present a very potent instrument for controlling not only voted but non-voted expenditure. The Assembly has been able, in particular, to use this weapon to reduce Army expenditure. Secondly, agreement with the Executive Government has been secured when extraneous political questions were not at issue, and especially when the Assembly was single-minded in the pursuit of economy. Lastly, the Assembly has no power of initiative. It may refuse its assent to a demand or reduce it, but may not increase it or alter its destination. Similarly, rulings of the Presidents have established that it may not, even by way of amendment to the Finance Bill, impose taxation which the Governor General in Council has not proposed. It is however open to question whether all such amendments do not come within the scope of section 67 (2) (*a*) of the Government of India Act, and if a new tax by way of substitution of a tax proposed in the Finance Bill or an increase of a tax so proposed were to be moved, the ruling of the President would be sought with reference to that provision of the Act if sanction had not already been obtained to the moving of the amendment. In these respects the constitution has modelled itself on the lines of the House of Commons, but in one respect the Assembly is more jealous of its powers than that chamber is. It has never adopted the self-denying ordinance that the expenditure proposals of Government should not be modified except in so far as such modifications are formally accepted by them.

Indian Budgets under the Reforms.

18. A fair appreciation of the financial operation of the reformed constitution must take some account of the magnitude of the problems which faced both the Governor General in Council and the Chambers which dealt with supply and ways and means. The courage to impose necessary taxation is an important test of the character of a Legislature.

The Reforms were introduced during a quinquennium of deficit budgets, reflecting post-war conditions. The first two budgets with which the new Chambers dealt left deficit balances in spite of increased taxation. The tide turned with the third budget, and since then expenditure has always been covered by revenue. But the five years closed with an accumulated total of deficits of Rs. 100 crores in spite of the imposition of additional taxation. The way of the Legislature towards financial stability has no doubt been made easier by the adoption by India of a policy of protection, and revisions of tariffs undertaken for other purposes have been a frequent method of providing ways and means. Towards enhancement of the salt tax the Assembly, as is shown by their treatment of Finance Bills, has been opposed, but it has agreed to additions to railway charges and postage rates, which are not a popular form of taxation. Retrenchment of expenditure has been pursued at least in the later Assemblies rather as a political programme than a financial policy, and its advocacy has been more prominent on

special occasions than in the annual process of granting supply. The interest of the chambers in the Retrenchment Committee will be described presently, but it must already be apparent that no occasion of pressing for a reduction of military expenditure, which is non-voted, is lost. The Assembly has shown not more than tepid enthusiasm for the remission of provincial contributions.

The general attitude of the Assembly towards financial problems is described in the following extracts from the speech with which the Finance Member introduced the Budget for 1926-27:—

"The first Assembly was burdened with the ungrateful task of imposing extra taxation in order to bridge the yawning gap between revenue and expenditure, a task that at one time seemed well-nigh hopeless. The Budget of 1924-25, which coincided with the first session of this House, signalised our definite escape from the era of deficits and brought the salt tax back from Rs. 2-8-0 a maund to the present rate of Re. 1-4-0. For this reduction, though no doubt it had the assent of the majority, only the minority in this House who voted for the second reading of the Finance Bill can claim to share the credit with the Government and the Council of State, and the Government did not conceal their view that a higher rate, which might have enabled us by now to have achieved the complete extinction of the Provincial contributions, had much to commend it. But, if this House dealt in a step-motherly way with the Budget of 1924-25, it placed to its credit six months later the convention in regard to the separation of railway finance from general finance, a reform which I regard as the greatest financial achievement of the years under review".

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"I ask those who profess unending dissatisfaction with the Reforms and denounce them as a sham and the Government as insincere and unresponsive, does the financial story of these three short years justify depression or despondency? In that brief space we have immensely improved our financial machinery and have progressed nearly halfway on the road to extinction of the Provincial contributions, and we have reduced the salt tax and abolished the Cotton Excise Duty. For five years the Reformed Legislatures have been at work in India. It is true that weather conditions have on the whole favoured us and that the level of taxation is still high in comparison with 1914, though not in comparison with other countries. But to me it seems undeniable that the association of chosen representatives of the people of India with the Executive Government and their constant interaction the one upon the other in the Assembly and the Council of State have enabled India to win through the inevitable discomforts of the period following the war with a measure of success that makes her financial position the envy of other nations and could scarcely have been possible without the Reformed Constitution. The Members of this House appear to me sometimes to fix their attention so earnestly on what are called political questions as to overlook the steady advance towards the

goal of constitutional self-government which is being registered day by day in administration and in finance ".

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" The Government of India and this Assembly have not always seen eye to eye on financial questions, but the record shows that we have worked together, not without reward, to establish a foundation of financial stability far more firmly based than when we began ".

The Committee on Public Accounts.

19. Having granted supply to the Governor General in Council the Legislature proceeds to enforce through the Committee on Public Accounts the accountability of the executive to it. This Committee, which is set up under the Indinn Legislative Rules, is a statutory body, and in this further particular it differs from the Standing Finance Committee that it deals with all classes of civil expenditure, for at this stage the distinction between general and railway finance is abandoned, and the Committee is concerned with both. The rules which set it up empower it to deal with the audit and appropriation accounts of the Governor General in Council and such other matters as the Finance Department may refer to it, and impose on it the duty to satisfy itself that the money voted by the Assembly has been spent within the scope of the demand granted by the Assembly. It is obligatory on the Committee to bring to the notice of the Assembly every reappropriation from one grant to another grant, every reappropriation within a grant which is not made in accordance with rules prescribed by the Finance Department and all expenditure which the Finance Department has requested should be brought to the notice of the Assembly.

The Committee has no concern with the Council of State. It is to the Assembly, which alone is the chamber concerned with supply, that its report is presented by the Finance Member, and it is from the Assembly alone that its members are drawn. These members are eight in number and to them are added three members nominated by the Governor General while the Finance Member is *ex-officio* Chairman of the Committee. Up to 1926 elections took place annually according to the principle of proportionate representation. There were usually more candidates than seats to be filled, but as in the case of the Standing Finance Committee the bulk of the members served for one year only. At the end of that year the Indian Legislative Rules were amended and the practice now is that the Committee is elected only once during the life of each Assembly. Of the members elected at the time of the constitution of the Committee not less than one-half selected by lot retire on the expiry of one year from the date of their election and the remainder retire on the expiry of the second year from that date. The vacancies thus created in each year are filled by election, but the retiring members are eligible for re-election. The meetings of the Committee have steadily grown more frequent. They now number about sixteen each year and are sufficiently prolonged to allow the whole Audit and Appropriation Report to be considered.

The Committee normally has the assistance of the Auditor General who attends its meetings by invitation, and it examines for the purposes of its enquiries representatives of all departments concerned and, if necessary, the officers more directly responsible.

The Indian Legislative Rules to which the Committee owes its origin might appear, by the use of language referring to the scope of demands granted by the Assembly, to limit the function of the Committee to scrutiny of the application of voted supply. But alike by interpretation, by statutory rules and by practice the scope of the Committee's activities has been recognised to be something much wider. In the first place the rules have been interpreted as entitling the Committee to deal with any matter brought to its notice in an Audit and Appropriation Report, even though it may arise in relation to non-voted expenditure. Again the Rules regarding the Auditor General in India, which themselves have statutory force, bring expenditure to which the Auditor General has taken any objection based on contravention of the cannons of financial propriety within the purview of the Committee. The effect of these two extensions of the primary powers of the Committee is that it may range over the whole audited civil expenditure of Government whether voted or non-voted and it may conduct an administrative as well as an appropriation audit. It may challenge not only the regularity of expenditure but also its propriety, even if it be not irregular. In short the scope of the Committee's enquiry is coextensive with the scope of the Auditor General's Audit and Appropriation Accounts of the Civil expenditure of the Governor General in Council. Finally the Committee has claimed that it should be allowed, at least by convention, to go into the receipt side of the accounts. The Committee's claim to be entitled to examine receipts has been conceded, not by the establishment of a convention, but by interpreting the statutory rules as permitting the Committee to offer in its report criticisms and recommendations upon any matter discussed in the Audit and Appropriation Report submitted to it or in the Auditor General's forwarding report where such matter concerns the accounts of expenditure, voted or non-voted, or those of receipts. Seeing, however, that the accounts of the receipts of revenue of Government Departments are not necessarily audited by the Auditor General, this interpretation has not in practice widened to any great extent the sphere of the Committee's authority. So far it is the Committee's scrutiny of civil expenditure which has been under consideration. Military expenditure is non-voted, and is therefore not under the control of the Assembly. But even here the interference of the Committee has been accepted. An annual report relating to military expenditure is prepared by the Director of Army Audit, an officer of the Auditor General's Department and an annual appropriation report dealing with the military accounts is prepared by the Financial Adviser, Military Finance. These two reports are reviewed by the Auditor General and together with the Auditor General's review are then considered by an *ad hoc* Committee of officials appointed by the Governor General in Coun-

cil. The report of this *ad hoc* Committee together with all the documents on which it is based are laid before the Public Accounts Committee who scrutinize the Committee's Report but may not examine witnesses. A longer or shorter section of their report presented to the Assembly deals with military expenditure, and it has been their practice to accept the conclusions of the official Committee; and occasionally to make a few suggestions. The proceedings of the *ad hoc* Committee are submitted to the Assembly along with the report of the Public Accounts Committee and both the appropriation report of the Financial Adviser, Military Finance, and the Audit report of the Director of Army Audit are placed in the library of the house for the use of members.

The Committee is not an executive body. It has no power, even after the most minute examination and on the clearest evidence, to disallow any item or to issue an order. It can only call attention to an irregularity or impropriety or to failure to deal with it adequately, express its opinion thereon and record its findings and recommendations. Its report is submitted annually to the Assembly by the Finance Member, but it has never there received formal consideration and discussion. The Assembly has contented itself with passing the demands made by the Governor General in Council for excess grants in order to cure irregularities, or in selecting individual matters brought to light in the report to be made the subject of separate discussion on a resolution or otherwise. Recently individual members of the Assembly have expressed the wish that the Report should be formally discussed in the House, but it is doubtful whether there is any general desire of this nature. In truth the report is apt to be too technical and to require too close study to commend itself to the members of the Assembly as a subject of discussion. In effect the orders passed on the report are those of Government. They are communicated to the Audit officer concerned as well as to the Auditor General, and are scrutinized by the Public Accounts Committee with regard to their adequacy when the Audit and Appropriation report of the succeeding year comes under review. But the indifference of the Assembly to the report which completes the annual labours of the Public Accounts Committee must not be taken as implying any lethargy in the Committee itself. Its scrutiny of expenditure is jealous, detailed and enthusiastic, and the Committee has proved itself both industrious and efficient. It has notably enlarged the authority of the Assembly.

The Influence of the Legislative Chambers.

Varying degrees of influence on different subjects.

20. So far this note has been concerned with matters on which the conclusions of the Chambers prevail unless authority, placed by the constitution in other hands, is brought into operation. It has been indicated that particular portions of the administration are in varying degrees removed from the legislative or financial authority of the Chambers. For instance the public debt of India

may not, except with the previous sanction of the Governor General, be made the subject of any measure in either Chamber, and its service is not subject to the vote of the Assembly. The Indian Legislature may not legislate for the public services, nor may supply for portions of these services be presented to the vote. The maintenance of the defence forces and the administration of foreign and political affairs are outside the scope of private member's legislation save with previous sanction which would not ordinarily be given and supply for them is appropriated by the Governor General in Council. Expenditure classified as ecclesiastical is also non-votable.

But, besides this sphere of authority, there is a sphere of influence within which, chiefly by interpellation, resolution or motion or through Committees, the Chambers may bring effective pressure to bear on Government. To this influence the whole administration, with two abatements, is subject. The general abatement is that the Governor General may disallow any resolution or motion for the adjournment on the ground that it cannot be moved without detriment to the public interest or that it relates to a matter which is not primarily the concern of the Governor General in Council. The particular exception is that the relations of the Governor General or the Governor General in Council with any foreign State or with an Indian State and the affairs and administration of an Indian Prince or Chief may not be made the subject of a question, a resolution or a motion to adjourn the House. It is important for present purposes to observe that the public debt, the Civil Services in India and defence, which have been removed from the legislative and financial control of the legislative Chambers, have not been removed from any portion of their statutory influence exercised by the asking of questions and the moving of Resolutions and the moving of a motion for the adjournment. Government of India Act, Part VII-A.

21. The right of subjecting the representatives of Government to oral examination is one which is highly valued and freely used. In the Council of State during the last seven years notice of 3,173 questions has been given and 2,561 have actually been asked. The volume of questions has not varied appreciably in that period. But in the Legislative Assembly, the use of interpellation at once increased when the Swaraj party entered the Chamber. The first Assembly asked steadily about thirteen to fourteen hundred questions each year; the second and third Assemblies asked each year about twice that number. During seven years notice of 18,107 questions has been given and 14,842 have been put. The practice of both Houses laid down in their Standing Orders is to allot to questions the first hour of business. Interpellation.

The discrepancy in both Chambers between the numbers of questions put down and questions asked is due, in the first place to the withdrawal or lapse of questions or their amalgamation, and, in the second place, to disallowance of questions. The first category, which includes 179 questions in the Council of State and 467

questions in the Legislative Assembly, requires no examination. But disallowance which has been the fate of 14 per cent. of the questions put down in the Council of State (433 questions) and 15 per cent. of those put down in the Legislative Assembly (2,798 questions), is of more interest. The power to disallow questions is in the hands of the President of the Chamber. Certain matters of fact, such as the degree to which foreign and political relations are affected and the existence of pending litigation, are conclusively determined, in case of doubt, by the order of the Governor General on which the President's decision regarding admissibility automatically follows. But on the specific point of admissibility the order is that of the President. What Government may do is to lay before the President its views regarding admissibility, and, in the last resort, to refuse to reply to the question. In practice a reply is altogether refused only in one case. That is when the labour entailed in collecting information would be out of all proportion to the result obtained. On this ground Government refused to ascertain the amount of $3\frac{1}{2}$ per cent. securities held by public and private bodies, the cost, province by province, of increased pensions, the number of persons assessed to income-tax, the different countries, banks and private firms holding Government securities and to compile figures of questions disallowed wholly or in part in both Chambers. Questions may be disallowed for reasons either of substance or of form. When a question is defective in point of form, it is usual to allow the member, who has given notice, an opportunity to amend the question, and Government therefore freely brings to the notice of the President objections of this kind. Total disallowance on grounds of this nature is due, if at all, to the question being purely argumentative or hypothetical. The Standing Orders require that a member asking a question containing a statement of fact shall make himself responsible for the accuracy of the statement. The requirement is not scrupulously observed. The general sense of the Chambers accepts it, but is content with a slight degree of enquiry on the part of the questioner.

Objections on points of substance are taken much less freely by Government. On two matters, however, Government have been more strict. Objection has been taken as a matter of principle to questions affecting the relations of Indian States with the Governor General in Council or the territories of the former. The rules impose an absolute prohibition on such questions, and there is therefore a duty on Government to raise objections. The President is also advised to disallow questions regarding the exercise of powers vested in the Governor General alone. Objections regarding the substance of a question are most frequently due to its subject matter being related to public affairs with which the Member of Government addressed is not officially connected or to a matter of administration for which he is not responsible. Members frequently desire to examine the Central Government on matters of purely provincial concern. The earlier practice of Government was to take objection to all questions relating to provincial subjects. But in

1924 the Assembly passed a resolution to the effect that all important questions or subjects over which the Governor General in Council has superintendence, direction and control be answered by Government after obtaining the necessary information from the provincial Governments. Government adhere to the principle that questions relating to provincial subjects should not be answered, but they have made this concession to the demand of the Assembly that disallowance of questions relating to provincial subjects (both reserved and transferred), is not recommended when the Government of India have knowledge of the details and they refer to matters of all-India interest.

The objects of interpellation are usually either to elicit information or to influence the policy of Government. It might therefore be expected that questions would tend to interest themselves most with those parts of the administration which are removed from the control of the Chambers. This is not so. The Department of which the fewest questions are asked is the Legislative Department to which the interpellations addressed relate to arrangements within the Chambers and for the comfort of its members, to the League of Nations, to the electoral regulations and Legislative Rules. The Foreign and Political Department are not much more freely questioned. Even the Army Department is subjected to only moderate interpellation. But, at the other end of the scale, questions on railway matters are exceedingly numerous. During recent sessions of the Assembly almost half the questions asked have been addressed to the Railway Department. This is due to the intimate interest of the general public in railway rates and conveniences and of sections of the community in the railways as employers of labour and purchasers of stores and stock. After the Railway Department in answering questions comes the Home Department, which is interrogated on political conditions and problems, the administration of law and justice and general service questions, and, at a long interval, the Departments of Industries and Labour, Finance and Education, Health and Lands. Each Department has its own problems in which the Chambers or sections of the members are specially interested—emigration in the Department of Education, Health and Lands, postal rates and facilities in the Department of Industries and Labour, and income tax, but not the public debt, in the Finance Department. But there are certain classes of subjects regarding which the Chambers keep a watchful eye on all Departments. The most conspicuous of these is the Indianization of the services. Similar, but less important, are the purchase of European stores, the expenditure of money in England, and anything that lies under suspicion of favouring British trade. Questions of these kinds frequently lead to numerous supplementary questions from all parts of the Assembly.

In spite of the comparative rarity of interpellation in military affairs the questions addressed to the Army Department illustrate how influence can be brought to bear on the details of administration which is in special degree removed from the control of the

Chambers. The Esher Report of 1919-1920 produced a crop of questions on Indian military policy, the relation of His Majesty's Government and the War Office to the Government of India in respect of Indian military affairs, and the organization of the High Command in India. But more normally questions have been concerned with the grant of military training to Indians, the Indianization of the services under the control of the Army Department, the employment of troops overseas, cantonment reforms and the growth of military expenditure.

The use made by members of the information supplied in answer to questions is occasional and exceptional rather than regular. It is frequently employed in subsequent debates in the Chambers. But interpellation has had a considerable success in affecting the action of Government. It influenced considerably the shape of reforms in cantonment administration, brought to light defects in electoral rules or practice, led to the promulgation of vigorous rules under the Mines Act for the safety of human life, and induced Government to send a deputation of non-official members of the Assembly to visit the Andaman Islands. Questions urged with success the claims of Indian lads to be trained in the Royal Air Force, the grievances of pilgrims to Mecca, and the necessity for a special scrutiny of the Transfer of Property Act. It was as a result of questions in the Assembly that the position of Indian States with reference to conventions concluded on behalf of India was exhaustively examined. Finally, interpellation in the Assembly led to the attention of local administrations being directed to religious and moral instruction in Government schools, forced labour, the import and sale of artificial ghee, the adulteration of tea, the proscription of an objectionable book and such more particular matters as the revision of the regulations and the re-arrangement of judicial work in Ajmer-Merwara and the Radium Institute at Ranchi.

Official Resolutions.

22. The right to move resolutions is perhaps the most potent instrument for impressing on Government the wishes of the Chambers. Government themselves have not infrequently, for various reasons, found it advisable to move official resolutions. This has been done on 44 occasions in the Council of State and on 57 occasions in the Legislative Assembly. But this course has been taken less as an acquiescence in the influence of the Houses than as an anticipation of their legislative or financial authority. Much the most numerous class of official resolutions is that of those which arise out of International conventions or conferences.

Article 405 of the Treaty of Versailles requires Government to bring a recommendation or draft convention before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. When a recommendation or draft convention involves legislation it is open to Government to bring the matter before the Legislature by introducing a Bill without first moving a resolution, and if a resolution is first moved it is purely anticipatory. If, on the other hand, Government do not propose to adhere to a recommendation or draft convention, which

if adhered to would involve legislation, the matter must be brought before the Legislature and can only be brought by a resolution recommending that Government do not adhere to a particular convention. The Council of State discussed 26 resolutions of this nature and the Legislative Assembly the same number. These resolutions referred almost entirely to conditions of labour in various kinds of employment, but also included questions regarding reduction of exports of opium and the suppression of obscene publications. It was because of the power vested in the two Chambers of the Legislature by the Indian Emigration Act that Government was obliged to move four resolutions regarding emigration to Ceylon, the Straits Settlements, Mauritius and British Guiana, for the Indian Emigration Act requires the approval of the Legislature to draft notifications. The financial authority of the Chambers was anticipated by four resolutions regarding duties on sulphur, bamboo paper and paper pulp, tin plates and lac, and in the Assembly by seven resolutions which involved later demands for grants. The latter dealt with provincial contributions, bounties to the steel industry, the British Empire Exhibition and the addition of Indian representatives to the Judicial Committee of the Privy Council. More general questions brought under discussion on official resolutions were the report of the Reforms Enquiry Committee, the revision of the electoral rules and the grant of the franchise to women, the recommendations of the Lee Commission, the separation of railway from general finance, the appointment of Standing Committees to deal with Bills relating to Hindu and Muhammadan Law, and the report of the Indian Taxation Enquiry Committee.

Government have, therefore, made a very limited use of official resolutions, bringing forward in this way either particular questions on which the concurrence of the Chambers was probable and desirable or less frequently, general questions of constitutional interest on which opposition was not unexpected. Accordingly they have failed to carry only two resolutions in the Council of State and eight in the Legislative Assembly. The former Chamber refused to agree to a reduction of the allowances of its members and postponed discussion of the report of the Taxation Enquiry Committee on the ground that no definite proposals based on the report were put forward. The latter took the same action on that report, but definitely negatived the recommendations of the Lee Commission and the Reforms Enquiry Committee, adopting in both cases amendments in a completely different sense. The resolution regarding the Judicial Committee of the Privy Council was negatived but passed on a later occasion. Discussion of the other resolutions which Government failed to carry was postponed indefinitely.

Non-official resolutions—disallowance—subject matter.

23. Non-official resolutions are naturally much more numerous. They occupied the Council of State on 101 days and the Legislative Assembly on 62 days. Repetition of resolution makes it difficult to compute accurately the total number of which notice was given, but the numbers appear to exceed 500 for the Council of State and 5,000 for the Legislative Assembly. In the former Chamber 360 secured a place in the ballot and 204 were discussed, in the latter

625 and 169 respectively. The Council of State, therefore, devotes more of its time to resolutions than the Legislative Assembly and discusses more questions in this way; the Legislative Assembly would review a much larger range of subjects, if it could. It is the Governor General who allots the time for non-official business, and he allots such time as can be granted compatibly with the public interests. The Council of State gets more time for non-official Resolutions because it has less official business and disposes of it more expeditiously.

A resolution may be disallowed by the President on grounds of substance or of form, as in the case of questions. But the Governor General has also a power of disallowance when a proposed resolution cannot be moved without detriment to the public interest or when it relates to a matter which is not primarily the concern of the Governor General in Council. This power has been used on 31 occasions in the Council of State and 210 occasions in the Legislative Assembly. All but one of the resolutions disallowed in the Council of State were defective as relating to matters not primarily the concern of the Governor General in Council. In the Legislative Assembly this defect was fatal to 160 resolutions and 50 were disallowed in the public interest. It has not been the practice of His Excellency to exercise strictly his discretionary power of disallowance on the ground of irrelevance to the central administration. It is recognized, that, even though the subject may be one with the administration of which a province is charged within its own area, yet the Government of India have a wider responsibility and debate upon the general conditions of India should not be excluded in the central legislature. It is frequent, however, for members to propose resolutions which have not even so much connection with the responsibilities of the Government of India. Members have sought to discuss provincial matters of purely local interest administered as transferred subjects, the exercise of the personal powers of the Governor General and appointments to high office, such as the Bench of a High Court, made by the Secretary of State or the Crown.

The resolutions disallowed in the public interests are taken from the total number of resolutions of which notice was given, for orders of disallowance may be passed irrespective of the ballot and they include repetitions of the same resolution. Typical instances are resolutions that Government servants should not be compelled to execute orders which may be contrary to their religion, that all Akali prisoners should be released, that the South Africa Class Area Bill should vetoed by the Crown or India should declare war on South Africa, and that the British Cabinet having accepted the recommendations of the Lee Commission do not possess the confidence of the people of India.

The Presidents of the Chambers have disallowed 14 resolutions in the Council of State and 77 in the Legislative Assembly. The only numerous class of resolutions disallowed by a President is the 42 resolutions of which notice was given in the Legislative Assembly which related to foreign and Indian States. Government have

almost invariably taken objection to resolutions relating to Indian States. On several occasions discussions on the relations of India with other Dominions and the Colonies have taken place even though such discussions tend to be detrimental to broader Imperial interests. These are matters on which public opinion is very strong. The remaining grounds on which Presidents passed orders of disallowance were matters of form, the defects usually being such as could not be cured after reference to the proposer.

The subjects with which resolutions were concerned are so multifarious that a comprehensive view can best be attained by considering the departments whose administration was brought under discussion, and by paying particular attention to the discussion of matters not under the full control of the legislature. The Department which has to meet the most numerous resolutions is the Home Department. On two occasions it was involved in full dress debates on constitutional questions of the greatest magnitude. In the first Assembly a resolution was moved demanding the early grant of Dominion status and provincial autonomy and in the second Assembly the "National Demand" was put forward. The question of an early constitutional advance was raised unsuccessfully in the Council of State in 1926. Other resolutions touched on minor constitutional questions such an interpellation in the Indian Legislature on provincial subjects, the disqualification of women for membership of the Legislative Assembly, the superintendence by the Governor General in Council of the administration of provincial transferred subjects and powers and functions of the Council of State. Cognate resolutions related to the redistribution of provinces on racial or linguistic lines and the creation of separate administrations for particular areas. Resolutions which may be classed as political related to the exclusion from India or the confinement in jail of particular persons, the repeal of special laws, the grant of amnesties to certain classes of offenders and communal representation in the public services. Judicial matters included the creation of a Supreme Court, and administrative matters the abandonment of the Andamans as a penal settlement, the treatment of mental defectives, the regulation of religious festivals, and the censorship of the cinema.

The resolutions affecting the Army Department began in 1921 with fifteen resolutions arising out of the Esher Committee's report which had been examined by a Committee of the Legislative Assembly. These resolutions took the widest view of the military question, dealing with matters so fundamental as the purposes for which the Army in India is maintained, its equipment and its organisation. Later resolutions dealt with the grant of King's Commissions to Indians, the repeal of the Army Amalgamation Scheme of 1859 and compulsory national military service. It was also sought to limit military expenditure to a fixed sum, to secure the Indianization of the Army, to expand the Indian Territorial Force, to establish an Indian Sandhurst and to regulate the recruitment for the Indian Medical Service.

Resolutions regarding financial administration were not so numerous. They were to a certain extent moved by expert members, particularly in the Council of State, and they seemed to spring from no appreciation of the possibilities of extending the authority of the Legislature. But one resolution did propose the abolition of the distinction between votable and non-votable expenditure. On the revenue side the restriction of the use of opium, the general adoption of a policy of prohibition and certain improvements in income-tax administration were suggested. But perhaps the most important resolution criticised India's debt position and proposed to review and redetermine Government's debt redemption scheme. It resulted in the whole position and scheme being explained informally by the Finance Member to selected members. Other resolutions dealt with currency and exchange, the rates of interest on Government securities and the rehabilitation, the issue of loans in India, remittance and provincial contributions. The appointment of a Retrenchment Committee was sucessfully urged and the need for an economic survey of India discussed.

The Legislative Department were pressed to secure for India an adequate share of the indemnities and reparations to be obtained from Germany, to have the Indian Legislative Rules amended so as to permit the Legislature to take cognizance of matters (the occasion was the protection of Indian Princes from press attacks) on which the Government of India had undertaken legislation, and on certain matters concerning the League of Nations. It was desired that the leader of the Indian delegation should be an Indian, and that the grievances of Indians in Mandated Territories, especially Tanganyika, should be effetively ventilated in the Assembly of the League.

The most important resolutions on matters under the control of the Department of Education, Health and Lands related to the status of Indians overseas, and here there was little difference in the sympathies of the Legislature and the Executive. The export of rice and other food grains, indigenous systems of medical relief, the slaughter of cows, impressed labour, and special features of education were also discussed.

The Department of Industries and Labour were encouraged to proceed with Trade Unions legislation, to which reference has already been made by a resolution on this subject. Their policies as regards the purchase of stores and the technical education abroad of Indian youths were criticised, and the postal administration both as regards the system, the accounts, the grievances of employees and the rates came under discussion. The Assembly sought to extend its authority by requiring that its previous approval should be required whenever contracts were entered into between Government and a company for the working of State Railways, or for the conveyance of mails by sea, or for the purpose of telegraphic or wireless communication. The Department were also urged to investigate the problem of unemployment among the middle classes and to undertake enquiries into irrigation possibilities and the

causes of recurring floods in India, facilities for art studies, the mineral resources of Chota Nagpur, and the supply of Ganges water for the requirements of the pilgrim traffic.

The four subjects of railway finance, the Indianization of railway services, the treatment of third class passengers and State or company management are typical of the interest taken by the Legislature in railway matters.

Non-official resolutions on commercial matters have not been numerous. But one resolution led to the adoption of protection as the definite policy of India. Other resolutions urged the encouragement of Indian shipbuilding, the development of the road system of India, and tariff discrimination against South African coal imported into India. The creation of an Indian Mercantile Marine was discussed in the Assembly, but the demand that the coasting trade should be reserved for Indian ships was left for future discussion, and has later frequently engaged the attention of non-official members. The scheme of Government, however, for the establishment in Indian waters of a training ship for deck officers was accepted in principle and has been brought into force.

24. Government have only once been defeated on a resolution in the Council of State. The Legislative Assembly, however, has been less amenable to the arguments of Government speakers. It has divided on 91 occasions on resolutions, and has reached a decision favourable to Government on 51 occasions and unfavourable on 40 occasions. Non-official Resolutions. Results and effect.

Mention has already been made of some matters on which the Legislature expressed its wishes by means of resolution and Government took action accordingly. Notable instances are the adoption of a policy of discriminating protection, the statutory recognition and regulation of trade unions, the repeal of special laws and the Press Act, the constitution of unified bars of High Courts, of an Indian Territorial Force, and of a Royal Military College, the withdrawal of the excise on cotton and the restrictions on exports of food grains, the recognition and regulation of communal representation in the services and the association of Standing Committees of the Legislature with Departments of Government. The influence on administration which the Legislatures has brought to bear through its Committees will form the subject of a later paragraph of this note, and reference will there be made to the numerous special committees which have, in consequence of resolutions of the Legislature, been appointed to consider particular questions of administration. This is a very common method of giving effect to a resolution. Other matters in which Government have accepted recommendations made in a resolution are the purchase of stores, female franchise, the position of Indians overseas, martial law administration in the Punjab, the prevention of overcrowding in railway carriages, pilgrim traffic, the protection of Dera Ismail Khan against erosion and the establishment of a School of Mines. Similarly a resolution materially affected the attitude of Government towards the problem of the administration of Aden. But in a

considerable number of cases the only action possible was to communicate the terms of the resolution to provincial Governments, and in some cases a similar communication was made to the Secretary of State. In this way Government has given full effect to 37 and part effect to 36 non-official resolutions passed in the Assembly. The corresponding figures for the Council of State are 32 and 24.

In 32 cases however in the Assembly and 19 cases in the Council of State Government have found themselves unable to give effect to resolutions. It was not within the power of Government to obliterate the distinction between votable and non-votable expenditure, to surrender the power to secure necessary legislation or to accelerate the revision of the constitution. A duty on imported coal was found to be uneconomic, and it was administratively undesirable to permit certain persons to return to India, to release others from prison, to repeal the Bengal Regulations, to remove the Santhal parganas from the category of backward tracts, and to submit broad classes of contracts for the approval of the Chambers. It would have been an invasion of provincial authority to prescribe generally a policy of prohibition, to enquire into Sikh grievances in the Punjab, to answer in the Indian Legislature questions on purely provincial matters, and to interfere with the leave of provincial service officers.

It will be clear from these instances that it is by no means infrequent for the Chambers to seek to invade spheres of administration, Central or Provincial, which are not their proper field. More extreme instances of this tendency are the resolution that a Committee of the Council of State should examine the present distribution of portfolios among the members of the Council of the Governor General and should make recommendations and the resolution in the Legislative Assembly that rules should be framed to ensure that no action, administrative or legislative, is taken on reports of Commissions or Committees until the Legislative Assembly has considered them. Government indeed accepted the latter resolution after omission of the reference to rules and the insertion of the words limiting its operation to practicable cases, and there have been other cases in which Government have not been rigid in insisting on the maxim that Parliament does not administer. For instance, Government agreed that statutory notifications by the local Government rendering certain provisions of the Assam Labour and Emigration Act inoperative would not be withdrawn without consulting the Assembly, and have also welcomed interest in the construction of the New Capital and the purchase of stores. But in establishment questions, with which particularly in Railway administration there is some proneness to interfere, the influence of the Legislature has not been allowed to make itself felt.

Motions for Adjournment.

25. The use which the Chambers have made of the right to call upon Government, on a motion for the adjournment of the House, to state its policy or explain the conduct of its officers has a curious history. Leave to make such motions was not infrequently sought in the early sessions of the Council of State but since 1923 it has never been asked for in that Chamber. In the Legislative Assembly, on the other hand, in the earlier sessions permission was

only very occasionally sought. But since 1924 recourse to this expedient for putting pressure on Government has become much more popular, until in the sessions of 1927 leave was sought on 10 occasion and obtained on 6.

We are dealing here with motions for adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance. Other motions for the adjournment of the House are confined strictly to the question of adjournment, and are not of constitutional importance. Adjournment motions for purposes of debate require the consent of the President to their making. If they are admitted by the President as in order, the mover must still obtain the leave of the House, which must be asked for after questions and before the list of business for the day is entered upon. In the result, these motions are either party action or are moved by the more prominent and influential members of the House after consultation with party organizations.

In all, notice of 10 motions in the Council of State and 31 in the Legislative Assembly has been given. On 5 occasions in the former Chamber and on 15 occasions in the Legislative Assembly, the President withheld consent. One motion, that referring to the despatch of Indian troops to China, was disallowed by the Governor General in the pubilc interest. Otherwise disallowance was by order of the President either on grounds of anticipation, repetition, staleness or lack of urgency or because either the relations of Government with a Foreign State or pending litigation were affected. The practice in the Legislative Assembly, under its first President, was for the President to withhold the consent from motions relating to the matters not primarily the concern of the Governor General in Council; but the present occupant of the chair has hitherto favoured the view that the President is not entitled to refuse consent on this ground. In the Council of State it has been consistently held that the President can withhold consent on this ground. The result of the present view is that the House has been adjourned in connection with matters in the disposal of which the Government of India have had no opportunity either to go right or go wrong, the only action at the time of the bringing of the motion having been taken by the provincial Government in exercise of the administration of a provincial subject. The leave of the House has never been refused. The Council of State has discussed four motions for adjournment with the result that one was talked out, one was negatived and two were withdrawn. In the Legislative Assembly 12 were debated of which one was negatived, two were talked out and 9 were adopted. On 6 occasions the House divided, with the result that 5 motions were carried against Government and one in favour of Government. It is, therefore, the practice of the Legislative Assembly to push these motions to a division. They are almost invariably made with the object of conveying censure rather than of obtaining information or eliciting explanations from Government or rivetting attention on a subject. Typical instances are the recent discussions on the strike of the Bengal Nagpur Railway, the postponement of the consideration of the Indian Currency Bill, the non-

attendance of a detenu at the meetings of the Legislative Assembly and the hunger strike of State prisoners in Mandalay Jail. Government were also defeated on the motion regarding the composition of the Royal Commission on Currency and Finance. They did not claim a division on the motions relating to the refusal of passports to leaders of Khilafat delegations to foreign countries, the representation of Indians on the Commission now visting East Africa, and the failure to proceed with the Gold Standard and Reserve Bank Bill.

Committees —(*a*) Standing Committees.

26. So far the means by which the Legislature may influence the general course of administration or important particular acts of Government have come under consideration. It is now time to describe an effective extension of the influence of the Chambers, namely, their association with Government in the details of administration. One means of establishing this association is definitely provided in the Government of India Act where power is taken to appoint from among the members of the Legislative Assembly, Council Secretaries, who were intended to occupy positions analogous to that of a Parliamentary Under Secretary in Great Britain. The Council of State not unnaturally have taken no notice of this provision. The Legislative Assembly disapproved of its use on the only occasion when the matter came before it. No action to make these appointments has therefore been taken.

Section 43 A of the Government of India Act.

But the Legislature's really effective method of concerning itself in the details of administration is the appointment of committees. Here analogy with other countries must not be too confidently sought, because the arrangements are such as on the one hand to retain unimpaired the responsibility and authority of the executive and on the other, to reduce in no way the proceedings to be taken in the Legislature. Mention has already been made of the Public Accounts Committee, which is the only statutory committee, of the two Finance Committees and of Select Committees on Bills. The last named are appointed *ad hoc* when the Legislature has approved the principles of a Bill and wishes to have its details examined without the formalities and restrictions of a session of the whole House. The members themselves never sit as Committees of the whole House. What we are concerned with here is only Standing Advisory Committees of the Legislature associated with the several departments of the Government of India, or special committees for the consideration in detail of particular questions of administration. The intention of the authors of the present constitution was that, by attaching to each department or group of departments a standing committee of the Legislature, they should familiarize elected members of both Chambers with the processes of administration, and also make the relations between the executive and the legislature more intimate. They proposed to leave it to the Government of India to decide with what departments standing committees can be associated, and to the member in charge to decide what matters can be referred to the committee. But they recognized that for reasons of practical convenience no more could be done than to obtain the views of the

Paragraph 285 of the Report on Indian Constitutional reforms.

committees on important new projects, whether legislative or administrative. The Joint Parliamentary Committee in their turn expressed their intentions definitely. They aimed at the political education of India, and they desired it to be understood that the appointment of such committees, their composition and the regulations which govern their procedure are matters wholly and exclusively within the discretion of the Governor General. Accordingly, the committees now to be described have no statutory basis. The constitutional position is that the Governor General alone has power to make rules and orders for the more convenient transaction of business in his executive council. What His Excellency has done was to promulgate in 1922 rules for the constitution of committees of the Indian Legislature to advise the Home Department, the Commerce Department, the Department of Industries and Labour and the Department of Education, Health and Lands, on certain specified subjects. The subjects to be laid before the committees are legislative proposals, reports of committees and commissions, major questions of general policy, and annual reports, but the Member-in-charge of the department has discretion to select from these subjects for presentation to the committee those on which he desires its advice. The functions of the committees are purely advisory and their proceedings are confidential.

Report on the Government of India Bill, paragraph 10.

Section 40 (2) of the Government of India Act.

These provisions have so far led to little contention, although the Assembly undoubtedly desires to extend this sphere of its influence. Controversy has centred round the method of constituting the committees. From the first, and up to the last session of the Assembly, that chamber has desired to constitute the committees by direct election. This concession, however, which would tend to confer on the committees an authority and a responsibility foreign to the constitution, has been withheld. The standing committees consist of two members of the Council of State and three members of the Legislative Assembly. The members are nominated by the Member-in-charge of the department, with the approval of the Governor General from separate panels consisting of such numbers of members, not less than ten nor more than twelve, as His Excellency may direct. The panels are elected by each chamber of the legislature for each committee according to the principle of proportionate representation by means of the single transferable vote. The term of office of members of the committee is one year.

The utility of these committees has been greatly diminished by the practical difficulties of assembling them when the Legislature is not in session and of arranging for their meetings during the rush of work while the chambers are sitting. For these reasons continuous association of members with the work of departments has been found impossible, and even occasional association has not always been proved attainable. In the case of the Home Department, most of whose work is urgent and of an administrative character which cannot be laid aside for consideration, the committee has been discontinued. On the last occasion when it was constituted the Assembly were so little in favour of its retention that only the use of the official vote secured its appointment. Government are pre-

pared to have this committee if the Legislature desire it, but the Assembly is well aware of the position and knows that a Home Department Standing Committee cannot be a reality. The committee in the Commerce Department has had a similar history. That appointed in 1925 did not meet at all, and no committee was constituted in 1926. The Committee was reconstituted during the September Session of 1927 but has not yet had an opportunity to meet. The committee for the Department of Industries and Labour has held two sessions in each year, and considered important matters concerned with conditions of labour. The committee associated with the department of Education, Health and Lands, deals with questions of general interest in the department, but is overshadowed by another standing committee in the department to which reference will presently be made. Accordingly the committees have had little educative value, but the Legislature would like to retain them if they can be given a form in which they would afford means of controlling the executive.

There are, however, three other standing committees of the Legislature whose association with the executive has proved useful. The Standing Committee on Emigration is intended to advise the Government of India in the Department of Education, Health and Lands on all major questions regarding external emigration. It is composed by nomination from an elected panel, and it has a creditable record of work since its first appointment in 1922. The Member-in-charge of the department has referred to it almost every question of importance concerned with emigration. A recent instance of the greatest moment is the discussions of the position of Indians in the Union of South Africa. The object of appointing this and the two following committees is not merely the education of members of the legislature. The advisability of bringing railway administration into closer touch with public opinion led to the appointment of the Central Advisory Council for Railways. As reconstituted in 1924, when railway finances were separated from general finance, the council consists of one nominated official member, all the members of the Standing Finance Committee for Railways, six non-official members selected from a panel of eight elected by the Council of State from their body and six non-official members selected from a panel of eight elected by the Legislative Assembly from their body. The functions of the Council are purely advisory. It discusses such important questions of policy as may be placed before it by the Member-in-charge of Railways. Thus such questions as sleeper contracts, stores balances, purchases of stores, the construction of locomotives in India, transportation, recruitment of staff and kindred topics have from time to time been referred to the Central Advisory Council for discussion.

The third standing committee is the Advisory Publicity Committee. Its functions are to advise Government in regard to its publicity work and to draw up the budget relating to such work. It consists of a nominated Chairman, two members elected by the Council of State, seven elected by the Legislative Assembly and six nominated by Government of whom three are intended to be repre-

sentatives of the press. It works in association with the Bureau of Public Information which is attached to the Home Department of the Government of India.

(b) Special Committees.

27. But if departmental standing committees have failed to secure a close association of non-officials with the details of administration much more has been effected by the appointment of special committees to consider and make recommendations on particular administrative problems. These committees have been appointed as necessity arose. No deliberate effort has been made to bring the whole field of administration under review by the Legislature in this way. But the matters on which the executive have in this manner been put on their defence have been both numerous and important, and sometimes, as in the case of the relations of Government to its servants, have been intimate matters of administration.

Special committees may be classified in two ways, according as they have been appointed by Government of its own motion or at the instance of the Legislature, in consequence of resolutions, or according as they are committees of the Legislature or mixed committees including a greater or less number of members of the chambers. From the constitutional point of view it is important to notice that none of them have been constituted by election in the chambers. The Legisalture has never been permitted to select and send its own representatives to scrutinize and make recommendations on the details of administration. The committees tender their advice to Government, but their reports are available for the information of the Legislature, and are made use of when eventually the conclusions of Government come under discussion.

Twenty-seven committees have been appointed by Government at the instance of the Legislature. These have with about equal frequency been drawn from the chambers alone or have included other non-official members. In the former category fell the committees which considered the rules under the Indian Arms Act, the Press Laws, the Special Laws, the introduction of a reformed constitution in the North-West Frontier Province, the grievances of piece workers in the Government of India Presses, the establishment of necessary industries in connection with capital expenditure on railways and the revision of the Indian Stores Rules, the Esher Committee's report on the organization of the Indian Army, Railway Risk Note Forms, and the formation of a Central Road Board. But the subject matter for enquiry has frequently necessitated the appointment of expert members drawn from outside the houses. For this reason non-officials, other than members of the Legislature, sat on the Racial Distinctions Committee, the Seamen's Recruitment Committee, the Retrenchment Committee, the Mercantile Marine Committee, the Indian Sandhurst Committee and the Cinema Committee. The Government Securities Committees which sat in Calcutta and Bombay were purely expert committees.

The last named committtees alone have been infructuous. The recommendations of other committees have been accepted in whole or in part or are still under consideration. It is particularly

in the Home Department, which is in charge of general civil administration, that the recommendations of committees of the legislature have prevailed. In accordance with such recommendations the Press Laws and the Special Laws have been repealed, electoral rules, rules under the Arms Act and rules for the selection of the ministerial staff of the Government of India have been revised, the Criminal Procedure Code has been amended to remove racial distinctions and for other purposes, improvements have been made in the disposal of civil litigation, and the Bars of High Courts have been reorganised. The Government of India in the Department of Industries and Labour have accepted recommendations for the treatment of piece workers, for the purchase of stores and for the payment of compensation to workmen. In the last case the committee's recommendations determined the shape of legislation. Recommendations so detailed as those of the Retrenchment Committee and the Taxation Enquiry Committee could not be expected to be adopted in full, but they have been accepted in part or are still under discussion. The reports of the Economic Enquiry Committee and the External Capital Committee involved reference to local Governments, and final conclusions have not yet been reached. The committee on Risk Note Forms considered the liability of railways for loss and damage in certain circumstances and made recommendations which have been accepted. The recommendations of the Seamen's Recruitment and the Mercantile Marine Committees were accepted in part. Reference has already been made to the fifteen resolutions which resulted from the appointment of a committee of the Legislature to examine the report of the Esher Committee. Ten of these, of which the scope has been described, were accepted in full. Others have led to the creation of an Indian Territorial Force, to a reduction in the strength of British troops on the Indian establishment, to the grant in the Indian Territorial Force of honorary commissions and to a reconsideration of the system of service in the reserve. A later committee considered the position and organisation of the Auxiliary and Territorial Forces and made recommendations which either have been adopted or are under consideration in so far as legislation is required to give effect to them.

Less important constitutionally are the committees which Government have appointed of their own motion. These committees frequently include individual members of the legislature, but they are not in essence committees of the legislature, and it is not inevitable or indeed customary that their reports should automatically be made available to the chambers.

The Legislature—General.

Conventions and Procedure.

28. The foregoing account has brought to light several directions in which the cardinal problem of the central constitution, namely, the relations between an authoritative legislature and an official executive is being modified by the growth of convention. The most firmly established of all conventions is the fiscal convention, but the

general discussion of all supply, the separation of railway finance, the discussion during demands of non-voted expenditure, the annual readjustment of ways and means, the appointment of standing departmental committees, and the enlargement of the powers of the Standing Finance Committee are all tending to harden into recognised conventions. Nevertheless the development of constitutional powers in this way is to some extent alien to the present temper of the chambers. In the first Assembly, indeed, a resolution was moved urging the non-interference by the Secretary of State in matters of purely Indian interest when the Government of India and the Indian Legislature are in agreement, and a similar suggestion was made by the majority of the Reforms Enquiry Committee. But discussion on the resolution was adjourned without a decision being reached, and the Minority Report of the Committee refused to build hopes on the proposed convention. The definite demand has been made, and the aim of the majority appears to be that as a written constitution has been given, advance must be made not by convention but by statutory provision guaranteed and enacted by an Act of the British Parliament. The failure to make full use of the method of convention is partly political tactics and partly due to lack of appreciation of its potency.

Similarly, little effort has been made to modify the constitution through the amendment of the rules and orders governing the procedure of the Chambers. The Standing Order that on the termination of a session, Bills which have been introduced shall be carried over to the pending list of business of next session, gives private members' legislation a much better chance than it enjoys in England and it is mostly in the direction of greater facilities for non-official business that suggestions for the amendment of the Standing Orders have been made. But in general the tendency is to secure greater control over the executive by the inclusion of as much material as possible in the explicit provisions of a written constitution.

Party organization and the official vote.

29. An adequate account of the emergence of political parties, their relations and their vicissitudes would involve some attempt to set down a political history of India and its provinces since the reformed constitution was granted. There is in the Indian Legislature no constitutional problem such as that which the support accorded to or withheld from Ministers raises to prominence in provincial legislatures. It is, therefore, in place here only to notice briefly how party organization within the chambers affected the relations between the Executive and the Legislature and the operation of the constitution. We need consider the second and the third Assemblies only, for in the Council of State there are no parties, save the small Swaraj party, which is animated by the same spirit as the corresponding party in the Assembly but is not dominant, and in the first Assembly there was no definite party system. The small party of European members has always given discriminating support to Government. Occasional support is also obtained from groups of members. But the cardinal fact about organized parties is that they have hitherto normally been in opposition. The creed of the Swarajist party, which contains about 40 members,

commits them to wrecking the constitution in order to replace it by a truly national Government. The other parties, whether Nationalists, who include Responsive Co-operators, the Hindu Mahasabha group and a few odd members, or Independents, who are a group rather than a party, desire to obtain the same result, but by extorting it as a concession from Government in face of opposition within the Assembly. These two methods have been pursued with great but not with complete consistency, for a number of members of the Swaraj party gave Government active assistance in passing the bill for the protection of the Steel industry and came into the Government lobby in opposition to a resolution for the establishment of a supreme Court, and in 1924 the Nationalist party joined the Swarajists in throwing out successive demands and the Finance Bill. During the Simla Session of 1927 Swarajists voted with Government for the amendment of the Indian Penal Code to meet the communal situation, and were prepared to negotiate with Government on the terms of the Reserve Bank Bill. Nevertheless neither the Congress nor the Nationalist group is yet ready to treat official proposals on their merits. The attitude of each is governed by the policy of forcing constitutional advance.

How far any of these parties is a true party must be answered differently in each case. In the first place, it is essential to bear in mind that while some of the parties, for instance the Swaraj party and the Responsive Co-operators, represent political parties in the country at large, other parties, though representing a definite shade of political opinion, exist as a party only within the house. Again party discipline, even in the Swaraj party, which alone has some degree of formal organization, is at best weak. Apart from the difficulties which leaders experience in holding together on important administrative questions members united only on the broad political issue and often of a type little brooking control, there are the cross-currents of orthodoxy and heterodoxy in social matters, and the burning communal question. Lastly no party has a definite constructive programme of administrative or legislative reform.

What is loosely called the Government party consists of 26 officials and the 14 nominated non-officials. But Government cannot, of course, count on the support of the latter upon any particular issue, and have, indeed, been opposed by some of them on practically all issues. Nomination is used primarily to adjust inequalities of representation and Government recognize that they cannot claim any right to the support of nominated non-official members. Provincial official members are free to speak and vote as they like but on occasion may be required to vote with Government. Actually they spoke and voted against Government in connection with the provincial contributions.

These arrangements within the Assembly have had results which illustrate not only the real authority given to elected members but also, in conjunction with figures already given, the reluctance with which powers to obtain necessary legislation and necessary supply have been used. The Assembly divided on 431 occasions with

results favourable to Government on 239 occasions and unfavourable on 192. In 104 divisions on demands for grants Government was defeated in 56 and won in 48. On Bills 139 divisions went in favour of Government and 91 against. On resolutions and adjournment motions the majority was with Government on 52 and against on 45 occasions.

30. Consideration of the attitude of the Assembly to Government leads naturally to a consideration of the relations of the Chambers to each other. Both have an elected majority. But the members are designedly representatives of different elements in the country. Their interests and their temper are different. Complete harmony between them is, therefore, not to be expected. Relations between the two Chambers.

Reference has already been made to the five Finance Bills (1921, 1923, 1924, 1925 and 1927) on which the two chambers reached, at least in the first instance differing conclusions. This matter of interference by the Council of State with the decisions of the Legislative Assembly on Money Bills is one on which the latter chamber feels or pretends to feel strongly. As early as June 1921, notice was given of a resolution affirming the principles that Money Bills should originate only in the Legislative Assembly, that they may not be amended by the Council of State and that no Bill may be amended by the Council of State in such a manner as to increase any charge or burden on the tax-payer. The resolution was discussed in July 1923, when Government contended that there was in the constitution no warrant for the view that the other house could not amend a Money Bill. The resolution was lost by 30 votes to 35. The practice, however, is to initiate all such Bills in the Legislative Assembly. The Council of State continues to exercise over Money Bills the same authority as it indisputably possesses over other Bills, and has shown some disposition to retaliate by claiming that it should not be excluded from the grant of supply, but that all demands should be voted in a joint session of both houses. A resolution of which this was one object was moved in the Council of State in September 1927, but was negatived. In cases of legislation other than Finance Bills the two houses have been at variance on nine occasions. These Bills have been mentioned in connection with the legislative authority of the Indian Legislature.

Apart from financial powers, which are important, the three main matters on which the chambers have differed are initiation, joint committees and privileges. There is no legal or constitutional basis for the view that important legislative proposals should be initiated in the Assembly. There is this much practical importance in the matter that when the initiating house has referred a Bill to a select committee the second house is debarred by statutory rules from taking a similar course. But in reality the matter is one of prestige. In practice Government have, however, generally deferred to the feeling of the Assembly, because of its capacity for delaying measures introduced in the other House, as it did on the Bill to amend the Code of Criminal Procedure in March 1921; but, in the interests of the despatch of business and particularly to provide Indian Legislative Rules, Rule 29.

work as far as possible throughout the session for the Council of State, Government have adopted the practice of introducing non-controversial Bills and Bills of minor importance in the Council of State.

The feeling of the Assembly towards its sister chamber has militated against the use of Joint Committees. These Committees have been constituted only on 18 occasions. The Bills so considered dealt with technical matters such as factories, electricity, boilers, mines, workmen's compensation, carriage of goods by sea, light-houses, the Delhi University, income-tax, cotton transport, Cantonment house accommodation, the Cotton Cess, succession, the Gold Standard and a Reserve Bank and the Imperial Bank in which there were obvious advantages in pooling the expert opinion in the two houses. But in matters of general administration or wider interest the Assembly has shown some reluctance to co-operate in this way with the other house. As early as March 1921, the Legislative Assembly, by a practically unanimous non-official vote, rejected a motion for its concurrence in the recommendation by the Council of State to refer the Criminal Procedure Code Amendment Bill to a Joint Committee of both chambers. In 1926 when the Commerce Member moved for reference of the Insurance Bill to a Joint Committee aspersions were openly levelled in the Legislative Assembly against the other house, and the motion was withdrawn. Similarly in 1921 a proposal to refer the Finance Bill to a Joint Committee was given up in view of the opposition it met with in the Assembly. When the amendment of the Criminal Procedure Code, in consequence of the recommendation of the Racial Distinctions Committee, was referred to a Joint Committee, the amendments moved in the Assembly when the Bill came up there were exceedingly numerous. The Chambers have never sat in joint session, whether conference or sitting.

The Executive Government.

Constitution of the Governor General's Executive Council.

31. It was no part of the plan of the reforms to alter in constitutional essentials the nature of the Governor General's Executive Council. But the division of functions into central and provincial, and the process of devolution altered the incidence of the burden of administration, and in consequence some changes within the Government of India for administrative ends became necessary. What the constitution sought to do in this respect was to abolish such statutory restrictions as then existed in respect of the appointment of Members of the Governor General's Council, so as to give greater elasticity both in respect of the size of the Government and the distribution of work. The further object of increasing the Indian element in the Council was left to be attained as a matter of practice by the Crown on the recommendation of the Secretary of State. Accordingly the Act swept away the old distinction between ordinary and extraordinary members, and placed the number of members at the discretion of the Crown. The Commander-in-Chief is now, not necessarily, but in practice invari-

ably, a member appointed by Warrant under the Royal Sign Manual. The other members, who are appointed in the same way, have always numbered six, and it is customary and is indeed in accord with a definite recommendation of the Joint Select Committee that half of them should be Indians. The Act requires that three should have certain service qualifications, and one certain legal qualifications which may be gained in India as well as in the United Kingdom, but no use has been made of the provision for the regulation by rule of qualifications in other respects. The presence of Indians in the Council is not secured by any statutory provision. The method of transacting business is determined by rules and orders made by the Governor General.

Regrouping of Departments, which had suggested itself to Lord Chelmsford as a consequence of the changed constitutional conditions, came under final consideration when in 1923 the Retrenchment Committee of Lord Inchcape urged that it should be undertaken in the interests of economy. In that year Lord Reading re-allocated the work of the various Departments. No material change was made in the business of the Home, Foreign and Political, Army or Legislative Departments or in the functions of the Railway Department which remained in charge of the Commerce Member. But the responsibilities of the Finance Department were increased by entrusting the administration of Customs, Salt, Opium, Excise and Stamps to a Board of Revenue under it, and the Departments of Commerce and Industry were separated. The remaining four Departments were reduced to two, the old Departments of Public Works and Revenue and Agriculture being absorbed in the expanded Departments of Industries and Labour and Education, Health and Lands, respectively. The Departments of the Government of India are now the Army, Commerce, Education, Health and Lands, Finance, Foreign and Political, Home, Industries and Labour and Legislative Departments each in charge of a member, save the Foreign and Political Department which is in the portfolio of the Governor General himself. Railway administration is in charge of the Member for Commerce.

These arrangements, made for the more convenient transaction of business, left the Supreme Executive as strictly unitary as before. But rules and practice have done something to recognize in the Finance Department a separate existence and authority. In the first place the statutory rules which set up the Public Accounts Committee and those which provide for the duties of the Auditor-General confer on the Finance Department distinct powers as regards expenditure held under objection, reappropriation and references to the Public Accounts Committee. Again the Book of Financial Powers, against which the Auditor-General conducts his audit, places Departments of the Government of India in the position of a subordinate authority and defines their powers of appropriation and re-appropriation, subject in certain cases to the previous consent of the Finance Department. Finally the Legislative Assembly annually grants to the Finance Department a reserve fund, ordinarily amounting to Rs. 5 lakhs, which is at the disposal

Indian Legislative Rules 51 and 52, Auditor General's Rules—Rule 14, Proviso 1.

of the Finance Department not for its own purposes but to meet the unforeseen requirements of the Government of India.

The Services.

32. For an understanding of the arrangement of the services employed under the Government of India a brief reference to the general position of services under the Crown is necessary. The Superior Civil Services in India are divided into two classes, according as they administer subjects which are under the direct management of the Central Government or subjects which are primarily controlled by the Provincial Governments. The former class consists of the Central Services, the latter of the All-India Services. Though an officer of an All-India Service is assigned to, and, as a rule, remains in one province throughout his career, a certain number of officers of these services, and particularly of the Indian Civil Service, are taken by the Government of India from the provinces, either temporarily or permanently, to assist in the discharge of its central functions. The All-India Services, though working for the most part in the provinces, differ essentially from the provincial services, which are recruited in a province solely for provincial work.

Prior to the introduction of the reforms, the conditions of service of the members of the various civil services were generally regulated by executive orders passed by the Secretary of State, the Government of India and local Governments. The intention of the Government of India Act, 1919, however, was that these matters should be covered by statutory rules made by the Secretary of State in Council, or, to the extent to which he was prepared to delegate his powers, by the Governor General in Council or Local Governments. Accordingly, not only was provision made in the Government of India Act for the complete regulation of the services by statutory rules; but the rules or other provisions in force at the time of the passing of the Act were given statutory force, with the result that any alteration in them could be made by statutory rule alone.

Section 96B (2).

A general code of statutory rules, known as the Fundamental Rules, governing such matters as pay, allowances, leave and other conditions of service, was made by the Secretary of State in Council in January, 1922. These rules are primarily, but not entirely, a financial code for the services, and their promulgation left much still to be done in the direction of regulating the services by rules regarding matters of more purely administrative interest. The completion of the design of the Act was facilitated by the conclusions of a Royal Commission, presided over by Lord Lee, which was appointed to enquire among other things into the organization and general conditions of service of the Superior Civil Services. The Commission recommended certain important changes in regard to the organization and control of these Services which have been accepted.

The broad position, therefore, is that the members of the All-India Services employed under the Government of India, no less than members of these services employed in provinces, remain completely under the ultimate control of the Secretary of State in

Council, who recruits them and prescribes their conditions of service, and who in the last resort hears their appeals in disciplinary matters, or in the most serious cases himself passes the orders. With regard to the Central Services, it has been decided that with certain exceptions similar functions of control should be entrusted to the Governor General in Council, who will have the power to regulate by rule matters affecting their appointment and conditions of service. The necessary delegations of power will be made by the Secretary of State in Council by rules, a draft of which is at present under consideration. The establishment of the Government of India is completed by Central services of a second class, corresponding to Provincial Services, and by subordinate services. These two services remain under the control of the Government of India only.

The Royal Commission referred to above also laid stress on the desirability of establishing without delay the statutory Public Service Commission, provision for which was made in the Government of India Act, 1919, but which had not yet been appointed. Section 96C. As a result of this recommendation, the Commission has been constituted, and statutory rules have assigned to it functions regarding recruitment, disciplinary cases and other matters in connection with the Superior Services. In regard to recruitment, the Commission advises the Governor General in Council as to the regulations for examinations. It conducts the examinations. It also advises the Governor General in Council as to the individual candidates to be selected when appointment is made by nomination or the individuals to be promoted to the Superior Central Services, and a convention has been established that in all ordinary circumstances these recommendations will be accepted. In regard to disciplinary cases, provision has been made for appeals in the case of the Superior Services being referred to the Public Service Commission, and here again a convention is being established that normally its view shall be accepted by the Governor General in Council. The Commission has also been given certain general advisory functions in regard to such questions of organizations of the services as may be referred to it by the Governor General in Council. The Commission is also entitled to advise in regard to the orders to be passed in cases of reduction of posts where the interests of an All-India Service or of a particular class of Superior Services may be adversely affected.

33. The Government of India Act distinguishes provinces as Governors' Provinces, Lieutenant-Governors' Provinces and Chief Commissioners' Provinces. With the constitution of Burma as a Governor's province in 1921 the second class has disappeared, and the only provinces which do not enjoy a dyarchical constitution are the Chief Commissioners' provinces. The Act provides means whereby in these provinces legislative authority independent of the Indian Legislature may be granted by the constitution of a local legislature and executive authority distinct from that of the Governor General in Council may be conferred by classification of provincial subjects, devolution of authority and allocation of funds. No use of these provisions has been made except in Coorg. The

Chief Commissioners' Provinces.

question has been agitated as a local problem in Ajmer-Merwara, and as a local and an all-India political problem in the North-West Frontier Province but for various reasons no advance has been made, save that Ajmer-Merwara has been given representation in the Legislative Assembly which it did not previously enjoy. In these provinces the constitutional position remains as before the reforms. The administration is conducted by the Chief Commissioner under the control of the Governor General in Council and in exercise of delegated authority, supply is provided in the Central Budget and voted by the Legislative Assembly, and legislation is undertaken in the Indian legislature or is made by regulation.

Section 71 of the Government of India Act.

Coorg, however, since January 1924 has possessed a reformed but not a dyarchical constitution. A Legislative Council consisting of 15 elected and 5 nominated members may exercise legislative powers and deliberative functions similar to those exercised by the legislature in a Governor's Province, but all legislation requires the previous sanction of the Governor General and all Bills passed must be reserved for his consideration. Sources of revenue have been allocated as sources of provincial revenue and annual appropriation is effected through a provincial budget, discussed but not voted in the legislature and sanctioned by the Chief Commissioner. The responsibility of the local Government is to Parliament.

Relations with provincial Governments.

34. A comprehensive account of the relations of the Government of India with provincial Governments cannot appropriately be undertaken until the operation of the reformed constitution in each province has been studied and described. It is, however, necessary here to anticipate that account by describing, on the broadest lines, the nature of these relations as seen from above, and by indicating their scope and spirit. For present purposes, the most important of these relations are those arising from the general superintendence, direction and control of the civil and military government of India vested by statute in the Governor General in Council. But in actual administration the occasions of contact between the central and provincial Governments were due in the great majority of cases to other causes.

Government of India Act, Section 33.

In the first place, there is a large number of enactments where powers are reserved to the Governor General in Council, or are exercised by local Governments or authorities, subject to his sanction or control. In 1920, as a preliminary to the introduction of the reforms, the whole statute book was examined, and a Devolution Act was passed in order to remove as many as possible of the prescriptions requiring the sanction of the Governor General in Council or maintaining his control. Local Governments, so far as is consistent with the due exercise by the Government of India of the powers necessary for the maintenance and discharge of their own responsibilities, were set free from the supervision and control of the Government of India. But there are still 91 Acts of the Governor General in Council, 36 Regulations made by the Governor General, and in each province a varying number of local enactments which

require the proposals of the local Government on certain matters to be submitted to the Government of India for sanction. It is sufficient to note that although references by local Governments under these enactments to the Government of India have been constant, yet there has been no representation that the Devolution Act was an inadequate or ungenerous measure, and no arguments for its amplification were addressed to the Reforms Enquiry Committee of 1924.

In the second place, the Government of India Act, and rules or orders under it, require local Governments to obtain in certain circumstances the sanction of higher authority. The particular instance of previous sanction to the introduction of proposed provincial legislation is a matter of the exercise of the powers of the Governor General and not of the Government of India. It will receive consideration in connection with the description of the operation of provincial legislatures. Otherwise the relations of the Government of India with provincial Governments arising out of specific provisions of the Act and rules have been concerned preponderatingly with service and financial questions. In these matters, and particularly in regard to expenditure sanctions,* the orders required were usually those of the Secretary of State. The Government of India has exercised mostly functions of consultation and criticism. In service matters the need for such references has recently been greatly reduced by the promulgation of rules delegating to local Governments complete authority over provincial and subordinate services and special officers. In financial matters, the Meston settlement has been a constant source of dissatisfaction to certain provinces, and no satisfactory means has yet been devised of securing adequate control by the Government of India, combined with a due freedom in provincial Governments, over capital expenditure on large public works. The alienation of land other than land for industrial purposes and land revenue by provincial Governments is restrained by executive orders of the Government of India and has given occasion for discussion with various provinces.

*Provincial Audit Resolutions; Schedule III to the Devolution Rules.

In the third place, not infrequent discussions between the central and local Governments have been concerned with conflicts of jurisdiction or interpretations of particular provisions in the constitution. It has been necessary for the Secretary of State to prescribe rules to regulate the transfer of State lands and buildings between the Government of India and local Governments. Excise administration by Ministers in provinces has at times seemed to conflict with the central administration of tariffs and customs. The levy of terminal taxes by local Governments, more freely and extensively than could have been apprehended, has seemed at times to threaten the best interests of the commerce of the country as a whole, and indeed, where differentiation between Indian and foreign goods has been attempted, to indicate a weakness in the position of the Government of India in regard to commercial treaties. So much so, that the Taxation Enquiry Committee has recommended the formulation of general principles and the statutory conferment on the Government of India of powers to control the imposition of such taxes.

Analogous to these cases are the numerous cases in which it was sought to interpret the classification of subjects as provincial or central so as to relieve provincial finance and cast the burden on to central revenues. In the beginning of the Reform era some of the Provincial Governments busied themselves in trying to discover instances of services rendered to the Central Government and making claims for remuneration for them. Others were driven by financial stringency into strained interpretations of the proper classification of charges as central or provincial, even though the amounts at stake were small, or to take action which would affect central finances unfavourably. Claims have been made for reductions of the provincial contributions, for a greater share in income-tax and for the export duty on jute. Controversies of this nature were bound to arise in any constitution which proceeded from a delimitation of fields of administration, and therefore offered a scope for difference of interpretation in detailed practice. But claims of this kind have happily become less frequent, not only through exhaustion of major matters of dispute, but chiefly because of friendly agreement on broad principles in annual conferences of Finance Members.

Finally the Government of India has acted as the friendly co-ordinator of provincial activities. Conferences on matters such as Education, Jail administration and Police work have enabled provincial administrations to conduct their own affairs with acquaintance of the experience and interests of their fellows.

Relations with provincial Governments—Superintendence, direction and control.

35. The general powers of superintendence, direction and control by the Government of India over provincial administration vary widely according as the subjects are reserved or transferred. In the latter case, the statutory restrictions on the exercise of these powers have the practical effect of permitting only their occasional use, and it has been in service matters, where the administration of a central subject is concerned, that interference has been practised. When the Punjab Government proposed to prohibit the import into that province of foreign liquor the Government of India did not feel justified on a strict interpretation of the provisions of Rule 49 of the Devoluion Rules in cancelling the order in the exercise of their powers for the purpose of safeguarding the administration of the central subject of Customs. Again no interference appeared to be justified when allegations were made of very serious deterioration of certain main roads. In short, central control of transferred provincial administration has been exceedingly rare.

Compare Report of the Reforms Enquiry Committee, paragraph 36.

Over the administration of reserved subjects the intention of the constitution is that control should be normal and constant, but in the absence of definition of its scope it has fallen to the Government of India to arrive itself at a settled practice. The general principle observed has been to grant to the provinces as free a hand as possible in the various spheres of provincial administration and the accepted policy of the Government of India in the matter is to confine their attention as far as practicable to the consideration of such aspects only of provincial subjects as affect general policy or general interests. The pursuit of this policy has naturally had different results

in different spheres of administration. For instance, the provincial administration of land revenue has been controlled by the Government of India mainly with a view to regulation of alienation of land and land revenue and to restrictions on deviations from accepted principles of assessment, whether these deviations manifest themselves in fixing unusual percentages of net assets as the amount to be taken as land revenue, in prescribing unduly long periods of settlement or in giving Legislative Councils a voice in determining rates of assessment. On the other hand, superintendence of matters with the administartion of which the Government of India in the Home Department is concerned has gone into detail of a wider range. The attention of local Governments has, for instance, been directed to the possible effects of reductions in the Police force, the state of crime generally, delays in the disposal of criminal cases, the conditions of jail accommodation and jail discipline and administration, and the use of whipping as a jail punishment. Instructions have issued to provincial Governments regarding the treatment of certain classes of prisoners in jails and in the matter of the censorship of cinemas, and model regulations for provincial councils under the electoral rules have been circulated. From time to time the Government of India have directed the prosecution of certain persons for political offences. The consideration in these cases has been whether the prosecutions were of all-India importance or of importance to more provinces than one. Local Governments, however, remain competent to prosecute individuals on their own initiative whenever they consider this desirable.

That the Government of India have not exercised their powers of superintendence so as to restrict unduly the freedom of provincial Governments will be apparent from the means by which they inform themselves of matters under their control. In pre-reform days the Government of India exercised control over provincial Governments through the agency of touring headquarters experts. The time when that was possible has gone by. The Inspector General of Forests still makes inspections but his role is primarily to advise provincial Governments and the Government of India on the management of State forest property. The post of the Inspector-General of Irrigation has been abolished and the Government of India have appointed a Consulting Engineer of the standing of a Junior Chief Engineer who advises them on technical matters. A Central Board of Irrigation has also been constituted, consisting of the Provincial Chief Engineers for Irrigation and the Consulting Engineer to the Government of India, to advise local Governments as well as the Central Government on difficult technical matters which may be referred to it, such for example as important irrigation projects under preparation, or a dispute between two local Governments or between a local Government and an Indian State. The Government of India, therefore, move, in the direction of superintendence, direction and control on receipt of the periodical reports of administration or of special reports the submission of which is governed by orders of 1899. Only in regard to legislation have the

(Paragraph 4 of Despatch No. 2-P. W. of 25-6-25).

Government of India taken steps to enable themselves to control the new powers of the provincial Governments. The decision whether a Bill is of substantial importance within the meaning of the instructions is left to the local Government, and in the vast majority of cases in which Bills are submitted the Government of India do not in fact interfere at all. The requirements is imposed only with a view to the Government of India making observations or, in the last resort, issuing orders, if so advised.

The inclination of administrative departments of the Government of India generally is to be chary of exercising over provincial administration the powers which they undoubtedly possess. Where interference is found necessary, criticisms are generally tendered in the form of advice, and the issue of direct orders is avoided. The fact appears to be that no detailed definitions of the appropriate exercise of these powers have been reached in the several departments of the Central Government. The essential subject of law and order is more closely controlled than others, but otherwise the tendency is to err, if at all in the direction of provincial freedom. In one important particular, however, the intention of the constitution has been clearly expounded. It has been established that, unless the Act and rules specifically declare, a contrary intention, the powers exercised by a provincial Governor, as distinct from the Governor in Council, are subject to the superintendence, direction and control of the Governor General in Council.

Relations with Provincial Governments —Agency.

36. As regards the relations of local Governments as agents of the Central Government for the administration of central subjects, it is necessary to mention only two points of some constitutional importance and one curious anomaly in administrative arrangements. Certain Indian States have not been taken under the control of the Governor General in Council. The practice has been to appoint Governors of provinces in their personal capacity as Agents to the Governor General for the administration of relations with these States. It is now established that such an appointment is constitutionally inappropriate and that in future the agency of the Governor in Council should be used for the purpose in question. Similarly, cases have arisen in which it was desired to use the agency of a Minister in charge of a transferred department. The rules, however, provide only for the employment of the agency of the Governor in Council and in these cases the relations of the Minister and the Government of India are not those of agent and principal, but of parties to a business arrangement. Thus the Central Government, which has no public works establishment of its own for carrying out works in provinces, depends almost entirely on assistance from transferred departments of local Governments. The local Government cannot be required to afford this assistance, and if it does so, it is not subject to the superintendence, direction and control of the Government of India and it may fix its own charges. Indeed, local Governments have on occasion declined to undertake agency work of certain kinds.

In other respects, agency relations have occasioned no difficulties. But there remains the anomalous position in regard to the

administration of shipping and navigation, major ports and light-houses. These are central subjects, but powers concerning them are almost entirely vested in the local Governments by provincial or Indian statutes. The result has been a lack of uniformity in administration from province to province in the framing of rules, the issue of certificates and the rates of fees—matters which have an international bearing. This anomalous position appears to have been due to a failure to pass an Act, the converse of the Devolution Act, by which the powers vested in the local Governments might have been restored to the Government of India. Methods of putting the whole administration of these subjects on a proper footing have been considered, and a beginning has been made with light-house administration for which legislation has just been enacted by the Indian Legislature.

Relations with the Secretary of State in Council. The exercise of particular statutory powers and financial powers.

37. The relations of the Government of India with the Secretary of State in Council group themselves most conveniently round the particular powers which the Government of Inia Act has reserved to the Secretary of State, his control* of the expenditure of the revenues of India in British India, and his general powers† of superintendence, direction and control.

*Section 21.

†Sections 2 and 33.

In the first category fall a large number of powers of which many, such as the power to sanction the appointment of a Deputy Governor, have never been used. But it also includes the powers to make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances and discipline and conduct. These powers are now in process of partial delegation to authorities in India. Meanwhile their exercise has necessitated a constant stream of correspondence between India and England, and occasioned not infrequent differences of opinion. The Secretary of State in Council has always emphasized his guardianship of the official services, and he has accordingly exercised over the Government of India a control varying from general questions of service conditions to orders in regard to the particular circumstances of individual officers which by rule involve reference to him. His powers in this regard have been more particularly defined in various sets of rules, such as the Fundamental Rules. But, whatever the volume of this business, it is not of prime importance for the present account, for it was, under other conditions, a feature of pre-reforms administration, and, seeing that the Indian Legislature has no power over conditions of service, it does not arise from the cardinal change in the Government of India, namely, the independence and authority of the legislative Chambers.

Section 26 B. (2).

It is otherwise in the case of financial control. The Act of 1919 in the manner of earlier Acts made the control of the Secretary of State over expenditure in British India " subject to the provisions of the Act and rules made thereunder " and one of these provisions introduced a new controlling authority over expenditure, by laying down, albeit with two well-known qualifications, that the proposals of the Governor General for the appropriation of funds shall be

submitted to vote of the Legislative Assembly. This change and the practical difficulty in scrutinizing the great mass of the expenditure of the Government of India rendered it necessary to delegate large powers of initiative to the Government of India. The rules regarding expenditure sanctions have, therefore, been relaxed so as to require the previous sanction of the Secretary of State in Council in only a limited class of cases. There is, however, the general understanding that plans involving important questions of policy should not be initiated without consultation with him. Nevertheless the theoretical position is clear. The Secretary of State remains in law responsible to Parliament for all expenditure from Indian public funds. Accordingly, control from home over administration in the Finance Department of the Government of India is closer than that over almost any other class of administration, except perhaps defence, foreign relations and the conditions of service under the Crown. The budget proposals of the Government of India and particularly those affecting taxation must be referred to the Secretary of State in the first instance and approved by him before the budget is presented to the legislature. He also controls ways and means operations, sales of Council Bills, the mangement of the Gold Standard and Paper Currency reserves, the policy with regard to exchange and currency, and all borrowing operations in London.

Government of India Act, Sections 29 and 30.

The control of the Secretary of State of matters of railway administration is in the main financial, but it is illustrative of the three categories suggested at the beginning of this paragraph, for the particular statutory powers of the Secretary of State include powers to restrict the making of contracts, and all questions of general railway policy are controlled by the Secretary of State under his general powers of superintendence. The accepted policy of managing railways on commercial lines and the growing interest and influence of the legislative chambers in railway matters impose practical restrictions on the interference of the Secretary of State. In practice he is concerned only with the very broadest questions of administration, organisation and finance. Thus when the construction of a new line is proposed, the Secretary of State's approval is required if the estimated cost chargeable either to capital or to revenue exceeds $1\frac{1}{2}$ crores of rupees, or if an objection is raised by an authority working a railway to which the new line will be connected or of which the interests will be affected by the new line. Without the sanction of the Secretary of State the Government of India may not start open line works when the estimated capital cost of the new work or group of works forming one project exceeds $1\frac{1}{2}$ crores of rupees. All proposals for the purchase of any portion of a railway belonging to a Company of English domicile, or the sale of any portion of a State railway, require the sanction of the Secretary of State. When the purchase price of any branch line belonging to a Company of Indian domicile exceeds $1\frac{1}{2}$ crores of rupees or the amount payable under the contract with the Company whichever is less, the sanction of the Secretary of State is required. When disputes arise out of the terms of contract executed in

England with Companies of English domicile, the Secretray of State's sanction is necessary to their reference to arbitration. If any suggested abandonment of railway revenue raises an important question of policy, the Secretary of State requires reference to himself before action is taken.

Relations with the Secretary of State in Council—General powers of superintendence, direction and control.

38. In the matters described in the preceding paragraph it is not always clear whether the control exercised by the Secretary of State is based on particular or general powers, nor is it in practice necessary that the source of his authority should be indicated. But there are many matters in which the action of the Secretary of State is clearly an exercise of general superintendence, direction and control. His powers of this nature are still unrestricted by either rule or convention, for no action has been taken on the suggestion by the Joint Select Committee of a convention that the Secretary of State should not ordinarily dissent from concurrent conclusions of the Government of India and the Legislative Assembly on matters of purely Indian interest, or on a somewhat similar suggestion by the Reforms Enquiry Committee. The Secretary of State in Council retains very considerable powers. In particular he is absolutely responsible to Parliament for the maintenance of peace and order in India, and Imperial control over India's foreign and military affairs is unrelaxed. In certain cases the Secretary of State has by executive order insisted on being placed in a position to exercise control, if so advised. Thus his concurrence must be obtained before the Governor General refuses statutory previous sanction to the whole or a substantial part of a provincial Bill which a local Government desires to introduce and before the Governor General in Council requires a local Government by executive order to refrain from proceeding with a provincial Bill which does not require statutory sanction. Again, the Secretary of State is content that only certain classes of official Bills should be reported for his approval before introduction, although the pre-reforms practice was to obtain his previous approval in principle to all projects for legislation. The more important of these classes include Bills which involve Imperial or Military affairs or foreign relations, affect the rights of European British subjects or the law of naturalization, concern the public debt or customs, currency and shipping, or interfere with provincial legislation. But generally the sphere within which the Secretary of State may wish to exercise his powers of superintendence, direction and control is a matter of understanding rather than precise definition. Broad general questions are invariably referred to him, and new departures of any importance in purely administrative matters are brought to his notice. At the same time the Secretary of State is not restricted in the initiation of his control. He has, for instance, *suo motu*, drawn attention to overcrowding in Indian jails, and to official criticisms of observations made in a Legislative Council by a non-official member. But except in certain financial questions the initiative of the Secretary of State has never been pushed to the extent of reducing the Government of India to the position of a mere subordinate agency, and it is probably true to say that even in matters of finance there has

been on the whole a tendency as time goes on for his control to be gradually relaxed.

In Army matters the position is somewhat different. His Majesty's Government maintain a larger army than they would maintain but for the necessity of defending India, and they are under a constant liability to reinforce India with troops in the event of an emergency. The question of the strength of the Army in India is thus an Imperial question not because it is proposed to use the Army in India for the general defence of the Empire but because it may be necessary at any moment to use the Imperial Army for the defence of India. In these matters the superintendence, direction and control of the Secretary of State has, therefore, been more close, action has been taken more freely on the initiation of the Secretary of State, and the recommendations of the Government of India have been more independently considered and on occasion overruled.

Finally, it has been established that the control of the Secretary of State extends to the exercise by the Governor General of powers vested in him, apart from his Council, unless the Act clearly indicates a contrary intention.

COMMUNAL DISORDERS.

Communal Disorders.

1. In the attached statement statistics are given of communal riots which have occurred between Hindus and Muslims each year since 1923. In this note a brief description is added of the growth of these communal disorders, and of their extent; of the nature of the immediate causes of dissension which have led to open breaches of the peace, and of the methods pursued when passions are inflamed. No attempt is made to investigate historical origins, or to examine and assess the underlying motives which might be held to have influenced, or to be influencing, the ebb and flow of the rivalries and contentions of the two communities. In particular, no inferences are drawn from these statistics.

1. *Their Growth.*

2. It is unfortunate that no detailed figures are available from past records to enable ready statistical comparison to be made of the prevalence of communal riots during the last five years with their prevalence for similar periods twenty or thirty or more years ago, or at particular stages in the recent history of the country. But though statistics of that description have not been maintained, it is possible from the material which survives to attempt a review in very general terms of the course of communal disorders in recent years. The grave Benares riots of 1809 may however first be mentioned as the earliest notable instance of a communal disturbance during the British period. In that year the city of Benares experienced one of those convulsions which had frequently occurred in the past owing to the religious antagonism of the Hindu and Muslim sections of the population. The chief source of friction was the mosque built by Aurangzeb on the site of the old temple of Bisheshwar which was to Hindus the most sacred spot in the city. The ill-will between the rival communities culminated in a sudden outbreak of great intensity in October 1809, the immediate occasion being the attempted construction of a building by Hindus on the neutral ground between the mosque and the present temple of Bisheshwar. In the earlier stages of the riots this temple was invaded by the Muslims, the celebrated pillar known as the Lat Bhairon was thrown down and shattered to pieces and the sacred precincts were defiled. The next day great crowds of Hindus attacked the mosque of Aurangzeb, set it on fire and put to death every Muslim of the neighbourhood who fell into their hands. The entire city was given up to pillage and slaughter; and order was not restored by the troops until some fifty mosques had been destroyed and several hundred persons had lost their lives. For several months the magistrate, Mr. Bird, found it necessary to post guards near the chief places of worship, both Hindu and Muslim, to prevent further outbreaks.

3. Though the available records are meagre, communal disorders would appear to have been particularly prevalent between the years 1885 and 1893. Over the first part of that period the days set apart for the Muharram celebrations observed by Muslims in commemoration of the martyrdom of Hussain, the second son of Fatima the Prophet's daughter, coincided with the Hindu Dasahra festival and in consequence of the clash of these celebrations, there were serious communal disturbances at Lahore and Karnal in 1885. The same reason led to the great riots which occurred in Delhi in 1886, for the suppression of which military assistance was required, and to communal disorders at Hoshirapur, Rohtak, Ludhiana and Ambala. Dera Ghazi Khan was the scene of a disturbance at the Muharram in 1889. In 1891 there was a serious riot at Palakod in the Salem district of the Madras Presidency when some Ghairmahdis, members of a fanatical Muslim sect, attacked a Hindu procession. The year 1893 was one of the worst in the whole history of these Hindu-Muslim disturbances. In June there were grave outbreaks over a large area of country in the Azamgarh district of the United Provinces in connection with cow-killing at the Baqr'Id, and in August there occurred the very serious Muharram riots at Bombay, of which the memory still survives. These riots lasted for six days and 80 persons lost their lives; many mosques and temples were desecrated and many shops were pillaged. Other parts of the Bombay Presidency were similarly affected at the same time. On the occasion of the Dasahra there was a serious riot at Isa Khel in the Mianwali district of the Punjab.

4. The next period when communal disorders gave rise to particular anxiety would appear to have run from about 1907 when a series of dangerous disturbances occurred in the Mymensing district of Eastern Bengal, until the beginning of the great War in 1914. In February of that year a non-official member of the old Imperial Legislative Council moved a resolution recommending that owing to the strained relations between the two communities conciliation boards should be formed to settle inter-communal disputes. At that time the Peshawar riots of 1910, the Baqr'Id riots of 1912 at Ajodhya and Fyzabad in the United Provinces and the communal disturbances which occurred at Agra on the occasion of the Muharram in 1913 were still fresh in the public memory. It is significant too that in 1912 when leaving the United Provinces of which he had been the Lieutenant-Governor for five years Sir John Hewett made a parting appeal to the leaders of the two great communities to compose their differences and added that " it grieved him when he was about to leave India to see that differences were more acute and the feelings more bitter between the two communities in the United Provinces than they had been at any time during his residence there ". Sir John Hewett's connection with the United Provinces dated from 1875.

5. In 1917 there occurred the Shahabad Baqr'Id disturbances which recalled the Azamgarh disturbances of 1893 and which are among the most serious which have occurred at any time since the

British connection with the country. In the previous year there had been a minor Baqr'Id riot in the same neighbourhood, but the disturbances of September 1917 bore every indication of being due to a carefully pre-organised attempt on the part of the rural Hindus over a considerable area of country to put an end once for all to cow-sacrifice in their midst. The first riot occurred on the morning of the 28th September at a village named Ibrahimpur in the Shahabad district. In spite of the fact that a compromise had been concluded between the local Hindus and Muslims a large body of Hindus attacked and looted the village. The rioters dispersed as quickly as they had appeared and since the compromise had been broken the Muslims performed the cow-sacrifice according to their custom. Though the Baqr'Id festival was now concluded, this incident was only a prelude to the disturbances which soon affected practically the entire district. On the 30th September a mob of Hindus estimated to number more than 25,000 attacked Ibrahimpur and the neighbouring villages. It was dispersed only after a hand to hand contest with the police in the course of which much looting was done and the police station attacked. Reinforcements of military police were at once hurried to the district and for thirty-six hours there was calm; but on the 2nd October without further warning rioting broke out simultaneously over a large part of the district and for six days law and order disappeared. Large Hindu mobs everywhere attacked Muslims, destroyed their houses and looted their property. In the south of the district Muslim villages put up a stout resistance and desperate fights attended by considerable bloodshed occurred in some places. The mobs were frequently led by small land-holders who directed the proceedings from elephants or from horseback. The troops who were drafted into the district had at first great difficulty in coming to close quarters with the numerous mobile bodies of rioters, but as soon as it became possible to establish a cordon of military posts and to connect them with patrols along the main roads, resistance collapsed. On the 9th October similar disturbances broke out in the adjoining parts of the Gaya district where over 30 villages were looted. But this time troops were near at hand and order was restored after a few days. Rioters who had been arrested in great numbers, were tried by special tribunals constituted under the Defence of India Act and about one thousand individuals were convicted and sentenced to various terms of imprisonment.

6. There were a number of minor Baqr'Id riots in the province of Bihar and Orissa in 1918 and an outbreak at Garden Reach in Calcutta, but far the most serious was the mass attack made by Hindus on the Muslims of Katarpur in the United Provinces. The village of Katarpur is situated six miles from the city of Hardwar to which Hindus attach particular sanctity. The Hindus of the locality decided to prevent any cow-sacrifice taking place at Katarpur and negotiations had been in progress; but on the day of the occurrence, which was the day of the Baqr'Id, a large Hindu mob attacked the Katarpur village and burnt down all the Muslim

houses. Thirty Muslims were killed, including some burnt to death in the flames of their own homes, and sixty or more were injured, including some women.

7. We now approach the period when at the close of the great War and with the introduction of the reforms Indian nationalist leaders, under the guidance of Mr. Ghandhi, were engaged in uniting the two communities in concerted opposition to Government. It is not intended to bring the political history of those and the succeeding years within the purview of this note. It is sufficient merely to indicate the absence of communal riots while the Khilafat and nationalist leaders were in alliance, and their subsequent emergence when that alliance, or temporary liaison, fell to pieces for reasons which need not be here discussed. In 1919 there was no communal riot of any importance. The year 1920 was also tolerably free from communal disorders. In 1921 there occurred the Moplah rebellion. Though this rebellion was in itself a revolt against the authority of Government, the main brunt of the Moplah's attack was borne by the local Hindu population. These Hindus naturally did not join a purely Muslim revolutionary movement and the temporary loss of Government control in the less accessible areas affected placed them at the mercy of their fanatical neighbours. Murders, forcible conversions, desecration of temples, outrages upon women, pillage, arson and destruction were perpetrated freely, until troops could be assembled for the task of restoring order in a difficult and extensive tract of country. As might be expected, the barbarities practised by the Moplahs had immediate reactions on Hindu and Muslim relations throughout India.

8. By the year 1922 the political alliance between the Khilafat and Congress parties had disintegrated and, with this division between the leaders, old communal jealousies began to re-assert themselves among the masses. The Muharram celebrations of 1922 were attended by riots both in Bengal and in the Punjab, where the worst outbreak was at Multan. In spite of the precautions taken by the authorities and the elaborate arrangements made to prevent disorder, every year since 1923 has witnessed communal rioting on an extensive and, in fact, an increasing scale which has as yet shown no sign of abating. The attached list, which excludes minor occurrences, records no less than 112 communal riots within the last five years, of which 31 have occurred during 1927.

2. *Their extent.*

9. When relations between the two communities are normal, such riots as occur may be expected to be limited generally to the larger towns and cities and the occasions of the greater festivals when religious feelings run high. In the villages where their horizon is bounded by the same agricultural interests the two communities ordinarily live amicably enough together. The communal disorders of the last few years would appear however to be marked by two ominous and significant features, namely, their

wide distribution over most parts of the country where Hindus and Muslims come into contact, and their extension from the larger centers to small towns and to the countryside. The recent outbreaks have affected practically every province. Instead of being confined to particular sections of the country, the storm-centre tends to shift rapidly from one province to another, visiting each and returning to disturb amicable relations where they appear to have been resumed, and breaking out in localities where communal riots have previously been unknown. The worst communal riot in 1922 occurred at Multan in the Punjab; and in 1923 at Saharanpur in the United Provinces. The most serious communal disorders of 1924 took place at Delhi in July; at Kohat in the North-West Frontier Province in September, a particularly violent outbreak; at Allahabad in the United Provinces and at Jubbulpore in the Central Provinces in October. Of the sixteen communal riots reported in 1925 the worst were those at Delhi in March; at Aligarh in the United Provinces in September; at Arvi in the Wardha district of the Central Provinces and at Sholapur in the Bombay Presidency in October. In 1926 the terrible Calcutta riots which occurred in April and May, and were repeated in July, surpassed the violence even of the Bombay riots of 1893. A riot at Sasaram in the Shahabad district of Bihar and Orissa in April was followed by a disturbance at Kharagpur in Bengal in May and a very grave outbreak at Rawalpindi in the Punjab in June, and there were three further communal riots at Delhi. In 1927 minor affrays in different parts of the country culminated in the unfortunate incident at Kulkathi in the Barisal district of the Bengal Presidency when the police were compelled to open fire on a Muslim mob which refused to allow passage to a Hindu procession, and in consequence 17 Muslims were killed and 12 wounded. During March and the ensuing months riots followed each other in quick succession at Larkana and Surat in the Bombay Presidency; at Aligarh in the United Provinces; at Lahore in the Punjab, when 27 persons lost their lives; at Dinapur in Bihar and Orissa; and in the Nadia district of the Bengal Presidency. The Muharram was celebrated in July and though the elaborate precautions taken by the authorities successfully prevented a clash between the two communities in larger centres where trouble had been apprehended, communal riots were reported from Sholapur and the East Khandesh district of the Bombay Presidency; from Bareilly and from the Hardoi, Ballia, and Unao districts of the United Provinces; and from Multan in the Punjab. The record for August was even worse. A severe riot at Bettiah, a small town in the Champaran district of the province of Bihar and Orissa, resulted in the loss of 11 lives. Communal riots were reported from the Central Provinces, from Bombay, from Bengal and from the United Provinces where there was renewed rioting at Bareilly and a serious outbreak at Cawnpore. Before the year closed there had been riots at Nagpur in the Central Provinces; at Sholapur and Ahmedabad in the Bombay Presidency; at Dehra Dun in the United Provinces; and again at Delhi, in all of which lives were lost.

10. On earlier occasions when the countryside had been affected, for instance during the Azamgarh communal disturbances of 1893, the Mymensingh disorders of 1907, or the Shahabad disturbances of 1917, the outbreaks were due to a general agitation of communal feeling either as in Azamgarh or Shahabad on the subject of cow-slaughter, or as in Mymensingh, among other causes, by the economic grievances of the Muslim peasantry against Hindu landlords and money-lenders. But though those disturbances extended over a considerable tract and by their violence reduced the neighbourhood to a state verging upon civil war, their radius was strictly circumscribed. With the exception of a comparatively minor outbreak in the Nadia district of the Bengal Presidency in July 1927 when a village was attacked and some houses and a mosque destroyed by fire, communal riots in rural areas during the last five years have not been of that description; but strained relations between the two communities have led to riots on the subject of processions, music before mosques and other similar causes of dispute in villages, which have hitherto been a feature of ill-feeling between the communities apt to find expression only in the towns.

3. *Proximate causes of disorder.*

11. Both the Hindu and the Muslim systems are based upon rigid religious sanctions and for that reason the proximate occasion of communal disorder is almost always, in some one of its protean forms, the religious issue. When communal feeling is roused, it may be on matters of secular interest, religious zeal is apt to degenerate into sectarian rivalry leading to quarrels which break out into serious riots at the time of the great Hindu and Muslim festivals. At the annual festival, known as the Baqr'Id, Muslims commemorate Abraham's contemplated sacrifice of his son by sacrificing cows and other animals. As the cow is an object of great veneration to the Hindus, this festival has probably been the most frequent occasion of communal disturbances, and every year precautions are taken by the authorities to prevent disorder. Both the Azamgarh disturbances of 1893 and the Shahabad disturbances of 1917, were attempts on a large scale by Hindus to put an end to cow-slaughter; and in Shahabad they reached their greatest virulence after the Baqr'Id ceremonies had been concluded. Disturbances of that kind are fortunately rare. The ordinary Baqr'Id riot is confined to attempts by Hindus to prevent the *qurbani*, or sacrifice, at the time of the Baqr'Id itself, usually on the ground that it has not previously been the practice of the Muslims of that locality to sacrifice cows. The Muslim religion does not make the sacrifice of a cow essential; other animals may serve the same religious purpose; but, since seven persons may combine in the sacrifice of a cow, for the poorer classes cow-sacrifice is more economical than the sacrifice of goats for which such combination is not permissible; and Muslims resent interference with the performance of their religious rites by members of another creed whose beliefs they do not themselves share. At places where cow-sacrifice at the time of the Baqr'Id has been customary in past years,

though no attempt might be made by Hindus to prevent the sacrifice, resentment would still be caused if the animal were to be led to sacrifice by a route passing through a Hindu quarter of the town.

12. Other Muslim festivals do not in themselves offend Hindu sentiment, nor do Hindu festivals offend Muslim sentiment; but ill-feeling is apt to assert itself when, for instance, a Hindu festival of rejoicing clashes with a Muslim period of public mourning and lamentation. For their religious observances as well as for the ordinary affairs of life, the Muslims use the Hijrah a lunar year which brings the Muslim New Year's Day, the *Nau Roz* about eleven days earlier each year than in the preceding year. The Hindu calendar on the other hand is determined by years of two kinds, the one solar, the other lunar; the lunar year regulates the incidence of religious rites and festivals, but is itself adjusted to the civil solar year by a system of intercalation and the suppression of lunar months. While, therefore, Hindu festivals recur annually at approximately the same position in the Gregorian calendar. Muslim festivals fall so many days earlier each year, with the result that at some time or other all the different Hindu and Muslim festivals are likely to coincide within the lunar cycle of about 30 years. In particular the synchronisation of the Muharram with the Dasahra, is a time of anxiety for the authorities responsible for the maintenance of law and order; not only because of the importance to each community of those celebrations, but because each extends over a number of days. There is similar anxiety when, for instance, the Hindu Holi festival which is celebrated with great rejoicing coincides with the Muslim Bara Wafat observed in commemoration of Muhammad's death. As mentioned in an earlier paragraph, the great Delhi riots of 1886 and the other riots which occurred in the Punjab at the same time were due to the coincidence of the Muharram and the Dasahra festivals. The Peshawar riots of 1910 were due to the coincidence of the Holi festival with the Bara Wafat celebrations. The riot which took place at Sholapur in 1927 was brought about by a clash between a Muslim Muharram procession and a Hindu Rath Jatra procession; the riots at Mohamdi in the Kheri district of the United Provinces a month later by the coincidence of the Muslim Chihlum with the Hindu Janam Ashtami.

13. Baqr'Id disturbances find a ready explanation in Hindu resentment at the sacrifice of cows. Disturbances when Hindu and Muslim festivals coincide are equally easy to understand. Rival processions are abroad in the streets; vast crowds collect; religious emotion, sometimes sensitive, sometimes provocative, is deeply stirred; the atmosphere is highly charged and the general excitement seeks an outlet; in such conditions it is not necessary to look further than the immediate occasion to find the cause which has precipitated a disturbance. But communal riots are not confined to the occasion of the Baqr'Id and the coincidence of Hindu and Muslim festivals. If explosive material has been stored up, a spark will ignite it; if communal feelings are strained, the small-

est pretext will suffice to start a conflagration which each side accuses the other of having provoked. The serious Muharram riots which occurred at Saharanpur in August 1923 are a case in point. The route of the Muharram procession led through a bazar in which the passage of the *taziyahs*, or ornamented bamboo structures representing the mausoleum erected on the plains of Kerbala over the remains of Hussain, was obstructed by the branches of a sacred pipal tree. Arrangements had been made for Hindus to be posted on the neighbouring roofs to draw back the branches to allow the procession to pass, but when the time came there was some difficulty in passing the procession and the action of some Muslims in mounting the roofs to secure the stay ropes was construed as an attack upon the Hindus. The fierce rioting which ensued was not quelled until the police had opened fire; but in the meantime the outbreak spread to other parts of the town where a vast amount of damage was done to property, and the situation was not brought under control until military assistance had been obtained. In some towns the mere taking of *taziyahs* through certain Hindu quarters is held to be a cause of offence; in others the objection is to certain forms of music, for instance, the beating of drums. On the other hand, the Muslim residents of some towns resent Hindu marriage processions passing through the streets at the time of the Muharram.

14. It will be observed from the attached list of communal disorders that numerous riots have been ascribed to disputes arising from the playing of music before mosques. This proximate occasion of dissension leading to disorder is not new; it was a cause of controversy in parts of the Bombay Presidency, of the Central Provinces, and elsewhere, more than twenty years ago and was usually settled in accordance with the past custom of the locality. It is only, within the last few years however that it has come to play so conspicuous a part in the relations between the two communities. The differences which arose between the two communities at Akola in the Central Provinces in 1924 and 1925 may be taken as an illustration of the manner in which disputes of this kind develop. On the occasion of the Ganpati procession in September 1924 there was acute friction between the two communities and the district authorities issued orders forbidding the playing of music before mosques by the Ganpati procession of that year; but in the hope that before the procession of the following year the dispute might have been settled amicably, a rider was added that the orders were not to be regarded as a precedent. Subsequent negotiations failed, and at the Ganpati festival of 1925 there was again danger of violence and orders were passed by the Superintendent of Police requiring music to be stopped for a certain distance near each mosque which the procession would pass. The Hindus regarded this order as an encroachment on their rights and did not take out the procession on the due date. In the meantime the Muslims continued to press their objection to the playing of musical instruments in the neighbourhood of mosques to the extent of including within the description *tipri* or plain wooden sticks which the processionists strike together. The district authorities

decided that the use of *tipri* was permissible, and the magistrate issued formal orders under section 144 of the Code of Criminal Procedure directing the Muslims not to interfere with processions using *tipri*. This order was challenged in the Court of the Judicial Commissioner who declined to interfere. On the 24th October, nearly two months after the appointed date, the procession using *tipri* was taken out under strong police protection. On the 26th October the growing ill-feeling resulted in riots in the course of which a number of persons were injured. Representations were then made to the local Government by both communities. For their part, the Hindus claimed that in the public worship of Ganpati, the Hindu processions, when passing recognised public mosques had always been accustomed to play soft music, and that they limited themselves to soft in place of loud music in deference to the religious feelings of the Muslims rather than owing to the validity of any custom or usage; on the other hand, the Muslims asserted that Ganpati processions were unknown in Berar till about 1907 and were not accompanied by music till about 1923, and that the form in which they were now conducted was inspired by the object of causing annoyance to Muslims. In short, each community charged the other with provocation.

15. The immediate cause of the first of the big Calcutta riots of 1926 was the failure of the band of an Arya Samaj procession to cease playing their instruments when passing a well-known mosque in the Harrison Road at the time of the *Azam*, or invitation to prayer preparatory to the four o'clock public worship. The subsequent July riots in Calcutta started with a clash between Hindus and Muslims when the members of a Rath Jatra procession were attacked by the Muslims for refusing to stop playing music in front of a mosque, though it was the time of the *Maghrib* prayer at the hour of sunset. The increasing frequency of riots caused by the playing of music before mosques impelled the Government of Bengal to seek a *modus vivendi*, so far as Calcutta was concerned. Accordingly in June 1926 they issued a statement in which they laid down certain rules to be observed in Calcutta. For many years processionists wishing to play music had been required to take out a license the conditions of which prohibited the playing of music in the neighbourhood of places of worship during the hours of public worship. No change was made in the form of this license, but the Commissioner of Police was given authority to define precisely the hours of worship during which the processionists might not play music in the neighbourhood of buildings where public worship was proceeding. The famous Nakhoda mosque of Calcutta was excepted from the operation of these orders, and it was laid down that in its neighbourhood music should be stopped at all hours. Neither party accepted this decision as favourable to itself. The prohibition of music at any hour of the day before a particular mosque had a precedent in Delhi where music is invariably stopped when passing the Juma Musjid.

16. Every Hindu marriage necessitates a procession from the house of the bridegroom to that of the bride, with musicians and a

cortège. Thus if feeling are sore on the subject of the playing of music before mosques, the occasions when communal trouble may be apprehended are almost indefinitely multiplied. In 1923 rioting occurred in a town in the Punjab over the sounding of the temple bell during the set hour of prayer in the adjoining mosque. In September 1924 a riot occurred at Lucknow in the course of which four persons were killed and thirty wounded owing to objections taken by Muslims to the sounding of the *sankh*, or conch-shell, in the Hindu temple situated in a public park which Muslims frequented for the purpose of prayer.

17. Much of the dissension which occurs frequently arises less from what is done in the name of religious requirement than from the manner in which it is done or is alleged to be done. Thus in the Akola dispute mentioned in the preceding paragraph, the Muslims asserted that the Ganpati celebrations, in the organisation of which a considerable part had been played in the nineties by the Mahratta leader, Bal Gangadhar Tilak, were conducted in a manner intended to give annoyance to Muslims. Similar suggestions were made by the Muslim community to explain the grave riot at Bettiah in the province of Bihar and Orissa in August 1927 when 10 Muslims lost their lives and many were injured on the occasion of a Hindu Mahabiri procession. It was alleged that these processions, on the scale at which they are now arranged in that part of the country, are equipped with paraphernalia caricaturing the Muharram with the ill-disguised intention of offending Muslim sentiment. On the other side Hindus assert that the demands made by Muslims for the prohibition of music before mosques are actuated by anti-Hindu sentiment. The rights and wrongs of these controversial questions are not a matter for discussion in this note; but instances are unfortunately not rare when riots can be directly traced to deliberate acts of provocation other than the alleged conduct of processionists, or claims based upon the ground of religious requirement. The circulation of a violent anti-Islamic poem was the cause of the riots at Kohat in September 1924 which were followed by a general exodus of Hindus from the town. The discovery that the flesh of swine had been placed in three mosques of a town in the Bahraich district in the United Provinces led to a riot there in September 1925. Stones thrown by Muslims at Hindu processions are said on several occasions to have been the proximate cause of an ensuing riot. During the Calcutta riots the distribution of inflammatory printed leaflets by both sides together with the employment of hired hooligans encouraged the belief that money was being spent to keep the fight going.

18. Communal animosity at the time of the Calcutta riots was fanned to so great an extent by partisan writing in the press that proceedings had to be taken against a number of newspapers. In other parts of India also notably in the Punjab, communal writing of an extremely provocative type has assumed serious proportions and has been greatly responsible for exacerbating communal feeling. Not a few papers are said to owe their circulation almost

entirely to the virulence of their attacks on the rival community. At the Simla session of the Indian legislature in August 1926, Government introduced and passed a bill to amend the Code of Criminal Procedure so as to enable the authorities to confiscate publications calculated to promote feelings of hatred or enmity between different classes of His Majesty's subjects. At the Simla session of the Indian legislature in August 1927, Government introduced and passed a bill to amend the Indian Penal Code with the object of making it a specific offence deliberately and maliciously to insult the religion or the religious beliefs of any class of His Majesty's subjects. The second piece of legislation was undertaken in consequence of the view of the law taken in the Punjab High Court in connection with a notorious pamphlet entitled "Rangila Rasul" which ridiculed the Prophet of Islam as a result of which view the Arya Samajist publisher had been acquitted in revision.

19. This review of the proximate causes of dissension is not intended to be exhaustive; their variety branches in too many directions to admit of concise category. In Delhi in June 1926 a scare created by a bolting horse led to a communal riot in which three persons were killed and sixty wounded. The murder of the Hindu Arya Samajist leader Swami Shradhanand by a Muslim, Abdur Rashid, in Delhi in December 1926 was followed by a riot between Hindus and Muslims in which one Muslim was killed and others were injured. In November 1927 Abdur Rashid was executed for his crime in the Delhi jail and when his body was made over to his relatives for burial, it was unceremoniously seized by a truculent mob of Muslims who broke past the police and rushed with it into the city before they could be rounded up and dispersed, and the body recovered. Hindu passers-by were assaulted and two were killed and more than sixty injured, while a number of shops were looted.

4. *Casualties.*

20. Since 1922 approximately 450 lives have been lost and 5,000 persons have been injured in communal riots. The casualties inflicted are of two descriptions, those caused by the forces of law and order, whether police or military, and those caused by the rioters themselves. With regard to the former class no effort is spared by the authorities to prevent breaches of the peace and to separate the disputants without resort to firearms. In the Calcutta riots of 1926 this moderation was in fact criticised. In the third phase of these riots when the police were attempting to pass the Raj Rajeswari procession through the streets, controlled fire had on more than one occasion to be opened in order to disperse the crowds which barred the way. After the procession had passed, Muslim mobs collected in the rear and attacked a police station. At Kulkathi in February 1927 the armed forces at the disposal of the authorities were represented by a small guard of the Eastern Frontier Rifles and the magistrate found himself compelled to open fire in order to prevent his small force from being overwhelmed.

21. In the second class of casualties, when the riot is unpremeditated and is promptly suppressed, the tale of persons injured by the opposite faction may be expected to be slight; but where strained relations lead to anticipations of trouble, it is frequently found that both sides arm themselves in advance for the occasion, and supplies of staves, brickbats and missiles of various descriptions are kept in readiness. In some of the recent riots, for instance at Calcutta in 1926 and at Nagpur in 1927, firearms were used by individual members of the mobs of rioters. The most disquieting symptom, however, of some of the more serious riots in the larger cities has been the stabbing to death of individuals by roving bands of the opposite community, who spring upon their victims without warning and then vanish in a moment to be swallowed up in the labyrinths of small lanes and gullies where it is difficult, if not impossible, to trace them out and apprehend them. These assaults on individuals were a very conspicuous feature of the Calcutta riots of 1926, and the same tactics have since been employed in the Lahore riots of 1927 and elsewhere.

22. On the occurrence of a communal riot the shopkeepers put up their shutters and bar their doors, and in the area of disturbance all busines is suspended. When the mobs get out of hand, the rowdy elements give vent to their feelings in looting the houses and shops of members of the opposite community, and there have been all to frequent instances in which mosques and temples have been desecrated. In the Kohat riots of September 1924 house property estimated to be worth Rs. 9 lakhs was destroyed by fire and goods were looted on a vast scale. In the first three days of the Calcutta riots of April 1926 the fire brigade had to deal with no less than one hundred and ten incendiary fires.

23. The list of casualties hardly gives an adequate idea of the critical nature of the situation or of the dislocation of ordinary life which occurs on the occasion of communal disorder. For the authorities and for the public there is always the danger of the situation getting out of control and of excesses breaking out similar to those which occurred during the Calcutta riots. This danger is particularly acute in the large towns of the Punjab and of Northern India where communal feelings have been most strained. The numerous instances in which military assistance, including infantry, cavalry and armoured cars, has had to be sought has indicated that in the larger towns the task of preventing breaches of the peace at times of communal excitement is apt to be beyond the powers of the civil police, the strength of whose reserves is necessarily limited, while the strain imposed on all ranks is very great. Since 1926 on the occasion of communal riots troops have been required to restore order in Calcutta, in Delhi, Rawalpindi, Lahore, Multan and other places; while elsewhere outbreaks have been prevented only by the military preparations held in readiness. In Calcutta, in Kharagpur and in Lahore the services of the local Auxiliary Force have had to be requisitioned to supplement the available police and military forces, and assist them in preventing the spread of communal disorder.

Communal Riots since 1923 between Hindus and Muslims.

Serial No.	Date.	Place of occurrence.	Reported cause of the riot.	Casualties.		Remarks.
				Killed.	Wounded.	
	1923.					
1	11th April 1923.	Amritsar, Punjab .	Insult offered to a Hindu girl by Muslim rowdies.	...	20	
2	28th April 1923.	Multan, Punjab . .	Dispute arising out of a procession	1	9	
3	7th, 8th and 11th May 1923.	Amritsar, Punjab . .	Dispute between Hindu and Muslim children.	..	17	There was some destruction of property and incendiarism.
4	24th May 1923 .	Mahagon, Pargana Chail, United Provinces.	Kisan Sabha Movement; disputes between Muslim Zeminders and Hindu cultivators.	2 Hindus.	11 Hindus.	
5	31st July 1923 .	Panipat, Punjab . .	Ringing of gong in temples close to mosque.	..	36 Hindus. 1 Muslim.	
					37	
6	23rd August 1923.	Jubbulpur, Central Provinces.	Muharram Celebrations . .	2	..	
7	24th August 1923.	Gonda, United Provinces.	Ditto	..	28	Property was looted and a mosque was desecrated.
8	24th August 1923.	Saharanpur, United Provinces.	Ditto	3 Hindus. 7 Muslims.	235 Hindus. 61 Muslims.	There was looting of property and some shops were burnt.
				10	296	
9	26th and 28th August 1923.	Agra, United Provinces.	Ditto	2	..	There was looting of property and incendiarism.
10	6th and 7th September 1923.	Shahjahanpur, United Provinces.	Music before mosque . . .	..	..	
11	20th November 1923.	Nagpur, Central Provinces.	Ditto	..	18	

	1924.					
12	21st March 1924	Bagalkot, Byapur, District Bombay.	Ditto	..	14 Hindus. 6 *Muslims.* 20	
13	12th April 1924.	Kandala, Muzaffarnagar, U. P.	Ditto	..	6 Hindus. 17 Muslims. 23	
14	15th April 1924.	Hapur, District Meerut, U. P.	Punkha procession through Muslim quarters.	..	..	Shops were looted; one temple was burnt and two were desecrated.
15	11th to 17th July 1924.	Delhi	The *false* rumour that a Muslim boy was killed by Hindus and the objection to taking a cow along a prohibited route during Bakar Id.	15 Hindus. 1 Muslims. 16	96 Hindus. 50 Muslims. 4 Police. 150	Two houses were burnt and a temple was desecrated.
16	12th and 13th July 1924.	Nagpur, C. P. . .	Hindu processions before mosques	13	..	
17	11th August 1924.	Amethi, U. P. . .	Muharram Celebrations . .	..	..	
18	11th August 1924.	Sambhal, U. P. . .	Muharram celebrations . .	..	15	
19	23rd August 1924.	Bhagalpur, B. & O. .	Music before mosque . . .	1 .	34 .	There was some looting of property.
20	30th August 1924.	Nagpur, C. P. . .	Throwing of stones by Muhammadans on a Hindu procession.	1 Muslim .	10	
21	9th September 1924.	Kanod, Indore State .	Music before mosque . . .	..	18 Hindus.	
22	9/10th September 1924.	Kohat, N.-W. F. P. .	Publication and circulation of an anti-Islamic poem.	36 . .	145 . .	There was very extensive looting of goods in the bazar: house property estimated to be worth Rs. 9 lakhs was destroyed. The riots were followed by an exodus of the entire Hindu population from the city.

Serial No.	Date.	Place of occurrence.	Reported cause of the riot.	Casualties.		Remarks.
				Killed.	Wounded.	
	1924—*contd.*					
23	12th September 1924.	Lucknow, U. P. . .	Objection taken by Muhammadans to play music or *sankh* in the temple in Aminabad Park where the Muhammadans pray in the evening.	4 . .	30	
24	22nd September 1924.	Shahjahanpur, U. P. .	Music before mosque . . .	6 . .	104	
25	7th October 1924.	Allahabad, U. P. . .	Dusehra celebrations . . .	6 Hindus .	67 Hindus.	
				3 Muslims.	43 Muslims.	
				9	110	
26	7th October 1924.	Saugor, U. P. . .	Ditto	..	30 Hindus.	
27	7th October 1924.	Kanikaru, Bengal .	Ditto	..	6	
28	8th October 1924.	Jubbulpur, C. P. . .	Ditto	..	46 Hindus.	
					35 Muslims.	
					81	
29	25th December 1924.	Khanna City, Ludhiana, Punjab.	Rioting occurred on account of the destruction of the Walls of a mosque by some jats.	..	..	
	1925.					
30	11th February 1925.	Fatehpur, U. P. . .	Centenary celebrations of the Arya Samaj.	..	5 Hindus.	
					3 Muslims.	
					8	
31	9th March 1925.	Mandal, Viramgam, Bombay.	Hindu women were abused by Muslim women at a well.	..	3 Hindus.	

32	12th March 1925	Bagalkot, Bijapur, Bombay.	Holi celebrations . . .	..	Detailed information not available of the number of persons injured.	
33	16th March 1925	Delhi	A free fight occurred between the supporters of two rival Hindu candidates. The supporters of one of the candidates included Muhammadans.	1 Muslim .	17 Muslims. 3 Hindus. 20	
34	17th March 1925	Delhi	Funeral procession of the Muslim who died as the result of the injuries he sustained in the riot of the 16th March.	..	36	
35	1st August 1925	Panipat, Punjab . .	Muharram celebrations. . .	..	30 5 Police. 35	
36	2nd August 1925	Sholapur City, Bombay	Muharram celebrations . .	..	10 Hindus. 10 Muslims. 20	
37	15th August 1925.	Jalalpur, District Fyzabad, U. P.	Gaucharan procession of the Hindus. Music near Muslim dargah.	..	16 Muslims.	
38	15th August 1925.	Mirganj, Saran District, B. and O.	Music before mosque. (Procession of Mahabiri Akharras.)	..	Not known.	
39	23rd August 1925.	Titaghur, Bengal . .	Hindu procession playing music before mosque.	1 Hindu .	9	
40	30th August 1925.	Khamgaon, C. P. . .	Ganpati procession . . .	..	No serious injuries caused.	
41	22nd September 1925.	Aligarh, U. P. . .	Ramlila procession . . .	4 Muslims . 2 Hindus 6	38 Muslims . 91 Hindus. 129	Some houses ware looted.
42	28th September 1925.	Jarwa, Bahraich District, U. P.	Placing of pig flesh in 3 mosques .	..	29	

Serial No.	Date.	Place of occurrence.	Reported cause of the riot.	Casualties.		Remarks.
				Killed.	Wounded.	
	1925—*contd.*					
43	13th October 1925.	Arvi, Wardha District, C. P.	Private quarrel between 2 wrestlers	3 Muslims .	31 Muslims. 9 Hindus. 40	
44	26th October 1925.	Akola, Berar . .	Communal tension . . .	..	32	
45	28th October 1925.	Sholapur, Bombay .	Rath procession of Subrays Bow Math. (Music before mosque.)	2 Muslims .	13 Maslims. 75 Hindus. 4 Police. 92	
	1926.					
46	7th February 1926.	Madhi in Patherdi Mahal, Ahmednagar District, Bombay.	Dispute over a building called the temple of Zanbhola or Dargah of Hazrat Shah Ramzan in which both Hindus and Muslims have in the past claimed and exercise rights.	..	6 Muslims.	
47	11th February 1926.	Brondi, Ratnagiri District, Bombay.	Playing of music before a mosque by a Hindu procession on Maha Shivaratri day.	1 Hindu .	21 Hindus.	
48	15th February 1926.	Agra City, U. P. . .	Not reported. A number of Hindu hooligans attacked an aged Muslim.	..	1 Muslim.	
49	2nd to 15th April 1926.	Calcutta, Bengal .	The playing of music before a mosque by a Hindu procession.	24 Hindus . 19 Muslims. 2 Police. 1 Unknown. 46	327 Hindus. 238 Muslims. 1 A Indian. 2 Jews. 16 Unknown. 91 Police. 675	197 shops were looted; 151 fires were caused by riotars: 3 temples, 2 gurdwaras, 3 mosques, 2 durgahs were desecrated; one gurdwara was set on fire twice; one durgah was destroyed.

50	12th and 13th April 1926.	Rewari, Punjab . .	Playing of music before a mosque by a Hindu marriage procession.	1 Muslim .	Not reported .	Several shops were looted.
51	14th to 16th April 1926.	Sassaram, Shahabad District, Bihar and Orissa.	The trouble originally arose out of an individual quarrel between a Hindu and a Muhammadan followed by an outbreak attack on a gathering of Hindus and later the looting of shops.	2 Hindus.	10 Muslims. 8 Unknown. 18	
52	22nd April to 9th May 1926.	Calcutta, Bengal . .	The tense feeling resulting from the previous (*vide* above) rioting had not died down. The immediate cause of renewal of hostilities was brawl between some Hindus and Muhammadans.	30 Hindus. 31 Muslims. 5 Unknown. 1 Police. 67	172 Hindus. 213 Muslims. 6 Unknown. 4 Police. 395	Loss to property was estimated at Rs. 0,000; 15 fires were caused by rioters; one durgah was set on fire.
53	17th to 26th May 1926.	Kharagpur, Bengal .	Playing of music before a mosque by a Hindu funeral procession.	7 Muslims. 4 Hindus. 11	29 Muslims. 3 Hindus. 32	A timber yard was burnt.
54	1st June 1926 .	Hajinagar Paper Mills (25 miles north of Calcutta), Bengal.	Objection by Hindus to a Muslim passing a Hindu temple to fetch water.	..	40	
55	4th to 15th June 1926.	Rawalpindi, Punjab ..	Communal tension arising out of a resentment of Muslims over the leasing of land in close proximity to the Juma Musjid for purposes of cinema and the alleged playing of music by a Sikh procession while passing the mosque.	16	90	
56	22nd June 1926	Damoh, C. P. . .	Bakr-Id celebrations . . .	..	7	
57	Ditto .	A village in the Darbhanga District, B. & O.	Ditto	..	4 or 5 Hindus.	
58	Ditto .	Jhusi village near Allahabad, U. P.	Ditto	1 Muslim .	9 Muslims. 2 Police. 11	
59	23rd June 1926 .	Maksudpur, Muzafferpur District, B. & O.	Ditto	..	4 Muslims.	

Serial No.	Date.	Place of occurrence.	Reported cause of the riot.	Casualties.		Remarks.
				Killed.	Wounded.	
	1926—*con'd.*					
60	23rd June 1926	Shankarpur, Sitamarhi Sub-division, Muzaffer-pur District, B. & O.	Bakr-Id celebrations . . .	No injuries reported.		
61	Ditto .	Bihar Sub-division, B. & O.	Ditto	Ditto .	Ditto.	
62	Ditto .	Gaya, B. & O. . .	Ditto	Ditto .	Ditto.	
63	Ditto .	Singhasan, Darbhanga District, B. & O.	Ditto	Ditto .	4	
64	Ditto .	Sihali, Barabanki District, U. P.	Ditto . . . . (Hindus attempted to stop cow-sacrifice by force).	Ditto .	9	
65	24th June 1926	Delhi	Ditto . . . . The immediate cause was the knocking down of a man by a runaway tonga in Khari Baoli.	1 Muslim . 2 Hindus .	37 Muslims. 15 Hindus. 1 Christian. 9 Police.	
				3	62	
66	Ditto .	Gobindpur, Gaya District, B. & O.	Bakr-Id celebrations. Riot with murder.	Casulaties not reported.		
67	Ditto .	Katra thana, Muzaffer-pore District, B. & O.	Bkr-Id celebrations . . .	..	2 Muslims.	
68	1st to 7th July 1926.	Pabna, Bengal . .	The immediate cause was believed to be the taking of a Hindu procession with music past a mosque.	..	3 Hindus. 16 Muslims. 4 Police.	
					22	

69	11th and 15th to 25th July 1926.	Calcutta, Bengal . .	Disturbances in connection with Hindu religious Ratha Jatra and Rajeshwari processions and the Moharram celebrations.	20 Hindus . 8 Muslims.	94 Hindus . 132 Muslims.	4 fires were caused by rioters.
				28	226	
70	15th July 1926 .	Karachi, Bombay .	Alleged annoyance to some Hindus by a Jew convert to Islam.	..	10 1 Sikh.	
					11	
71	21st July 1926 .	Purnea, B. & O. . .	Moharram celebrations . .	..	1	
72	21st August 1926	Audarsul, District Nasik, Bombay.	Playing of music before a mosque by a Hindu procession.	..	Few persons injured slightly.	
73	27th August 1926	Delhi . . .	The immediate cause was a quarrel between a Hindu bank chaprasi and a Muslim shop-keeper who was instrumental in bringing about the dismissal of the former.	..	23 Hindus. 21 Muslims. 6 Unknown.	
					50	
74	5th September 1926.	Kidderpore, Garden Reach, Calcutta, Bengal.	Playing of music before a mosque by a Hindu religious (Janmastami) procession.	..	8 Hindus. 5 Police.	
					13	
75	6th September 1926.	Madhi, Patherdi Mahal, Ahmednagar District, Bombay.	Dispute in connection with a Hindu bullock procession in celebration of the annual 'Pola' festival.	..	7 Hindus. 4 Muslims.	
					11	
76	8th to 10th September 1926.	Dacca, Bengal . .	Janmastami festival celebrations .	6 Hindus . 2 Musilms.	72	Property worth about Rs. 5,000 was looted.
				8		
77	16th October 1926.	Calcutta, Bengal . .	Dasahra celebrations . . .	None reported.	..	

Serial No.	Date.	Place of occurrence.	Reported cause of the riot.	Casualties.		Remarks.
				Killed.	Wounded.	
	1926—*concld.*					
78	16th October 1926.	Howrah, Bengal . .	Dasahra celebrations . . .	1 Muslim .	3 Muslims. 7 Hindus. 10 Unknown. 20	
79	3rd December 1926.	Akyab, Burma . .	Singing party entered a mosque and desecrated it.	..	..	A mosque desecrated.
80	23rd December 1926.	Delhi . .	Disturbances following the murder of Swami Shradhanand.	1 Muslim .	4 Muslims.	
	1927.					
81	1st February 1927.	Kagankarai, North Arcot, Madras.	Ill-feeling between a wealthy Muhammadan and a wealthy Hindu ryot.	1	7	
82	17th February 1927.	Abdulpur in Bahadurganj town, Ghazipur District, United Provinces.	Immediate cause was a quarrel between a Muhammadan and a Hindu Halwai over the preparation of some food.	1	16	
83	20th February 1927.	Bombay City . .	Music before mosque . . .	1 Sikh .	5 Shiks. 16 Muslims. 9 Hindus. 30	
84	2nd March 1927	Pouabalia, Kulkati, Barisal District, Bengal.	Procession before mosque . .	17 Muslims .	12 Muslims.	
85	23rd March 1927	Badlapur thana, District Bombay.	Trouble arising out of a Muslim procession.	..	10 Hindus. 12 Muslims.	

					3 Police.	
					25	
86	29th March 1927	Larkana, Bombay .	Dispute between Hindus and Muslims over the possession of a woman and three boys.	1 Hindu .	57 Hindus . 11 Muslims.	A shop was looted.
					68	
87	10th/11th April 1927.	Aligarh, U. P. . .	Dispute between Muslim ekka drivers and Hindu parao contractors.	..	40 . .	A number of shops were looted.
88	3rd May 1927 .	Surat, Bombay . .	Music before mosque . . .	*1 Muslim .	*4 Hindus. 22 Police. 55 Others.	(* By Police.)
					81	
89	3/7th May 1927	Lahore, Punjab . .	Tension between the two parties was already acute. The actual outbreak was occasioned by a chance quarrel between Muslim and Sikhs.	15 Hindus . 6 Muslims. 6 Sikhs.	151 Hindus. 67 Muslims. 53 Sikhs. 1 Christian.	
				27	272	
90	11th June 1927	Dinapore, Bihar and Orissa.	Cow sacrifice	1	4 . .	Two houses were burnt down.
91	3-4th July 1927	Some villages in Meherpur sub-division, Nadia district, Bengal.	Communal ill-feeling culminating in attack by one party upon the other party's village and counter-attack by the other party.	2 Hindus . 1 Muslim. 3	1 missing . 4 injured by gun-shot, and several others reported injured.	Twenty-one houses and a mosque were burnt down.
92	10th July 1927 .	Sholapur, Bombay .	Clash between Hindu Rath procession and Muslim Muharram Tiger procession.	..	9 Hindus. 34 Muslims.	
					43	

Serial No.	Date.	Place of occurrence.	Reported cause of the riot.	Casualties.		Remarks.
				Killed.	Wounded.	
	1927—*contd.*					
93	10th July 1927	Faizpur, East Khandesh, Bombay.	Music before mosque . . .	1 Muslim .	6 Muslims. 1 Hindu. — 7	
94	10th July 1927	Bareilly, U. P. . .	Muharram celebrations . .	..	27 Hindus. 9 Muslims. — 36	
95	11th July 1927	Murawan in Unao District, U. P.	Ditto	1 Muslim .	13	
96	11—14th July 1927.	Multan, Punjab . .	Ditto	6 Hindus . 5 Muslims . 1 Sikh. — 12	11 Hindus 6 Muslims — 17	
97	13th July 1927	Sandila in Hardoi District, U. P.	Ditto	..	8	
98	13th July 1927	Ballia, U. P. . .	Ditto	..	Few injuries. Number not reported.	
99	2nd August 1927	Bettiah town, Champaran District, B. & O.	Mahabir procession . . .	1 Hindu . 10 Muslims. — 11	80 . .	A number of houses were burnt and considerable damage was done to property.
100	4th August 1927	Bassein in Akola, C. P. .	Friction arising out of Muharram celebrations and cow sacrifice.	1 Muslim .	50	

101	15th August 1927.	Karepatan, Deogad taluk, Ratnagiri District, Bombay.	Gokul Ashtami celebrations . .	..	4 Hindus.		
102	19th August 1927.	Comilla, Bengal . .	Music before mosque	1 Hindu .	33 . .	Four shops were looted.	
				1 Muslim.			
				2			
103	19th August 1927.	Mohamdi in Kheri District, U. P.	"Chehallum" and "Janamstami" celebrations coinciding.	..	10 Muslims.		
					4 Hindus.		
					14		
104	21st August 1927.	Ichauli, Police Circle, Tikatinagar, 34 miles from Barabanki, United Provinces.	Ramdol procession . . .	..	6 Hindus .	One shop was looted.	
					1 Muslim.		
					7		
105	23rd August 1927.	Delhi	A Hindu died as the result of an attack in the train on the night of 21st-22nd August by a robber whose identity was not known. Rumour spread that his assailant was a Muhammadan and this led to disturbances during the funeral procession.	..	4 Muslims.		
					6 Police.		
					10		
106	28th August 1927.	Bareilly, United Provinces.	Procession passing a mosque .	7 Muslims .	53 Muslims.		
				7 Hindus .	112 Hindus.		
				14	165		
107	29th August 1927.	Cawnpore, United Provinces.	.....	15 Muslims .	80 Muslims .	Thirty houses of Muslim residents were burnt.	
				7 Hindus .	58 Hindus .		
				22	138		

Serial No.	Date.	Place of occurrence.	Reported cause of the riot.	Casualties.		Remarks.
				Killed.	Wounded.	
	1927—*concld.*					
108	4th September 1927.	Nagpur, Central Provinces.	Trouble in connection with a Muhammadan procession.	12 Muslims . 7 Hindus . 19	76 Muslims . 47 Hindus . 123	Five houses of Muslim residents were burnt.
109	11, 12th September 1927.	Sholapur, Bombay	....	2 Muslims . 3 Hindus . 5	41 Muslims . 21 Hindus . 62	
110	11th September 1927.	Ahmedabad . .	Cause of the riot was the reading, accompanied by a harmonium and two drums, of extracts from the Bhagwat Gita during the time the Muslims were holding their prayers.	1 Muslim .	A few were injured.	
111	28th September 1927.	Dehra Dun, United Provinces.	Stones thrown by Muslims on the Dasehra procession.	2 Hindus .	31 besides numerous minor injuries.	
112	14th November 1927.	Delhi	A Muslim mob sized the body of Abdul Rashid after his execution in the jail for the murder of Swami Shradhanand and rushed it into the city where it was recovered by the police.	2 Hindus .	62 Hindus. 3 Muslims. 4 Police Constables. 69	

COMMUNAL REPRESENTATION IN THE LEGISLATURES AND LOCAL BODIES.

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Communal Representation in the Legislatures and Local Bodies.

CHAPTER I.

Introductory.

Comment in the Joint Report on the subject of communal representation.

1. In paragraph 227 and the immediately succeeding paragraphs the authors of the Joint Report discussed the problem of communal electorates and described it as " the most difficult question which arises in connexion with elected assemblies ". They stated that it was no new problem, it had been discussed periodically from the time when the first steps were taken to liberalize the Councils. They then added—

> " There has hitherto been a weighty consensus of opinion that in a country like India no principle of representation other than by interests is practically possible. Lord Dufferin held this view in 1888, and in 1892 Lord Lansdowne's Government wrote that ' the representation of such a community upon such a scale as the Act permits can only be secured by providing that each important class shall have the opportunity of making its views known in council by the mouth of some member specially acquainted with them '. We note that in 1892 the small size of the councils was reckoned as a factor in the decision, and that the contrary view was not without its exponents, but we feel no doubt that Lord Minto's Government followed the predominant opinion when in 1908 they pressed for an important extension of the communal principle."

The Lucknow Pact of 1916 entered into between Hindu and Muslim leaders had conceded separate electorates to the Muslims and Muslims were stated (paragraph 231) still to regard separate representation and communal electorates as " their only adequate safeguard ". On these grounds while holding the opinion that communal electorates are opposed to the teaching of history, perpetuate class divisions, and stereotype existing relations, the Joint Authors concluded that " so far as the Muslims are concerned, the

present system must be maintained until conditions alter, even at the price of slower progress towards the realization of a common citizenship." The only limitation which they suggested was that communal representation for Muslims should not be set up in any province, where they form a majority of the voters.

The claims of other minority communities to separate representation were dismissed by the Joint Authors, with an exception in favour of the Sikhs, of whom they wrote in the following terms:—

> "Any general extension of the communal system would only encourage still further demands, and would in our deliberate opinion be fatal to that development of representation upon a national basis in which alone a system of responsible government can possibly be rooted. At the same time we feel that there is one community from whom it is inexpedient to withhold the concession. The Sikhs in the Punjab are a distinct and important people: they supply a gallant and valuable element to the Indian army; but they are everywhere in a minority, and experience has shewn that they go virtually unrepresented. To the Sikhs therefore, and to them alone, we propose to extend the system already adopted in the case of the Muslims."

Communal representation under the Reforms.

2. Actually under the reformed system of Government introduced by the Government of India Act, 1919, Muslims, who no longer vote in mixed constituencies in addition to voting in their own constituencies, have been given communal electorates in provinces, for instance the Punjab and the Central Provinces, where separate communal representation had not previously been introduced and in addition to the Sikhs, separate communal representation has been granted to Europeans in Madras, Bombay, Bengal, the United Provinces, Bihar and Orissa and Burma; to Anglo-Indians in Madras, Bengal and Burma; to Indian Christians in Madras; and to Indians and Karens (on a limited scale) in Burma. In Bombay seats are reserved for Mahrattas, in Madras for non-Brahmans.

The reforms therefore not merely confirmed Muslims in the protection afforded by separate communal electorates, but went further and extended that type of protection in particular provinces to the other minority communities mentioned above; while in some instances protection has been given by the reservation of seats. So far then from restricting communal representation, the Reforms of 1919 extended its scope.

The scope of the note.

3. Before however the present position is examined, an attempt will first be made in this note to investigate the basis of the statement made by the Joint Authors in 1917 to the effect that hitherto there had been "a weighty consensus of opinion that in a country like India no principle of representation other than by interests is practically possible." This investigation will involve a passing reference to the introduction of a non-official element into the Councils by the first Indian Councils Act, 1861, and some men-

tion of the discussions prior to and at the time of the passing of the Indian Councils Act, 1892, when a greater measure of representation was introduced, and the elective principle first appeared under the disguise of nominations made upon recommendation. The Morley-Minto Reforms of 1909 will need to be dealt with rather more fully, because communal electorates, as such, date from those reforms which first openly recognised election as the mode by which representatives should obtain their seats on the Councils. In the later paragraphs of this note the description of of the Joint Authors of communal electorates as "the most difficult question which arises in connexion with elected assemblies" will be taken as the starting point from which to examine the manner in which the problem was approached by the Franchise Committee, by the Government of India, and finally by Parliament, and to describe the present position with regard to the electorates not only of the legislatures but of local bodies, namely, the municipalities and district boards. The note, which does not purport to be more than a simple collection of material, will then conclude with reference to subsequent discussions and party negotiations on the subject of joint *versus* separate electorates.

The place of communal representation under a system of Responsible Government

4. One point, however, merits separate mention. The representation of classes, communities and interests as such under any autocratic system of government tempered to greater or less degree by the representation of those governed may be said to occupy a very different constitutional position from similar representation under any system of responsible government, however incomplete, in which power and authority vest in the representatives themselves. Unless that distinction is mentioned, this note would fail to place the communal electorates of the present day in their correct relation to the communal electorates of the Morley-Minto Reforms of 1909, or to the representation of interests which it was intended to secure, but which was not secured, in the Councils formed under the provisions of the Indian Councils Act, 1892.

Chapter II.

The Reforms of 1861 and of 1892.

The 1861 Councils not representative bodies.

5. The first steps in the direction of associating non-officials with the business of legislation were taken with the passing of the Indian Councils Act, 1861. For purposes of legislation, and of legislation only, the Governor-General's Council was reinforced by additional members not less than six, nor more than twelve in number, nominated for two years, of whom not less than half were to be non-officials. The legislative councils were restored in Madras and Bombay by expanding the Governor's Executive Councils on the same lines as the Governor-General's. The Governor General was also directed to establish a legislative council for Bengal and empowered to establish similar councils for the North-Western Provinces and for the Punjab; these two bodies

actually came into being in 1886 and 1897 respectively. When introducing the India Council Bill in the House of Commons on the 6th June 1861, Sir Charles Wood made it clear that no attempt was being made to set up a "representative body to make the laws by which they are to be governed", and added—

> "I am sure that every one who considers the condition of India will see that it is utterly impossible to constitute such a body in that country. You cannot possibly assemble at any one place in India persons who shall be the real representatives of the various classes of the population of that empire."

The point then to which attention is drawn is that the additional members of the Governor-General's Council summoned when the Council met for the purpose of making laws and regulations were not appointed as "representatives" of the people or of particular sections, classes or interests of the people, though their appointment indicated a desire on the part of the Government to obtain non-official co-operation and advice in the business of making laws.

The constitution of the 1892 Councils.

6. In this respect the Reforms of 1892 marked a definite advance; not only was the representation of interests recognised, but the elective principle was introduced. As explained in paragraph 66 and the succeeding paragraphs of the Joint Report, the measure which eventually took shape as the Indian Councils Act, 1892, was initiated by discussions in Lord Dufferin's time which resulted in definite recommendations that provisions should be made for the appointment to the councils of representatives of the more important interests in the country. The Joint Authors have quoted Lord Dufferin's view of the position as it then existed, when he brought forward his proposals that the wishes and feelings of the people of the country should be—

> "..... expressed not, as at present through self-constituted, self-nominated, and therefore untrustworthy channels, but by the mouths of those who will be the legally constituted representatives of various interests and classes....."

Popular representation as understood in Western countries was not contemplated, but it was felt that there was room for considerable advance in the representation of interests on the lines indicated in the following extract taken from one of the Government of India's despatches addressed to the Secretary of State in 1892 at the time when the new Indian Councils Bill was being brought before Parliament:—

> "Indian society from historical causes to which we need not now refer is essentially a congeries of widely separated classes, races, and communities, with divergences of interests and hereditary sentiment which for ages have precluded common action of local unanimity. Representation of such a community upon such a scale as the Act permits can only be secured by providing that each

important class shall have at least the opportunity of making its views known in the council by the mouth of some member specially acquainted with them."

Representation by interests and the first appearance of the elective principle.

7. In the Act as passed the word "election" was scrupulously avoided; but the elective principle was thinly disguised as nomination upon recommendation. The important point to notice for the purpose of this note is that this legislation carried the country one step further in the development of the principle of representation by interests as the foundation upon which the non-official element in the Councils should rest. When introducing the Bill in the House of Commons on the 28th March 1892, Lord Curzon, then Under Secretary of State for India, observed that the time had not yet come when representative institutions, as we understood the term, could be extended to India. He disclaimed any intention of giving the enlarged councils the character of representative chambers, but stated that the Bill was intended to "provide the means by which representatives of the most important sections of native society may be appointed to the Councils". When transmiting to the Governor General in Council a copy of the Act as passed by Parliament, the Secretary of State, Lord Cross, commented in the following terms on the steps to be taken to obtain "the representation of the views of different races, classes, and localities":—

> "Where corporations have been established with definite powers, upon a recognised administrative basis, or where associations have been formed upon a substantial community of legitimate interests, professional, commercial or territorial, Your excellency and the local Governors may find convenience and advantage in consulting from time to time such bodies, and in entertaining at your discretion an expression of their views and recommendations with regard to the selection of members in whose qualifications they may be disposed to confide."

After the receipt of the Secretary of State's instructions, the Government of India defined for each province the classes which were of sufficient importance to require representation. Thus the classes considered to require representation in the province of Bengal were as follows:—

"(1) Hindus.
(2) Muhammadans.
(3) Non-official Europeans and Anglo-Indians.
(4) Merchants, traders and manufacturers.
(5) The planting community.
(6) The population of the Presidency town.
(7) The urban classes of the mufassil.
(8) The rural classes.
(9) The professional and literary classes."

It was recognised at the time that this classification was a cross division: a person representing the professional or urban classes might also represent the Hindus; and a person representing the rural classes might also represent the Muslims.

It will be noticed that the classes in Bengal to which the Government of India considered that representation must be secured comprised communities (for instance, Hindus, Muslims and Europeans), classes (for instance the urban, rural and professional classes), and interests (for instance, commercial interests). In the distribution made under the regulations, no right of nomination was conferred on any community as such, but the regulations were so designed as to give effect to the expression of opinion of the Government of India, quoted in paragraph 227 of the Joint Report, that "each important class shall have the opportunity of making its views known in Council by the mouth of some member specially acquainted with them." The elective element in the provincial councils consisted at the utmost of eight members, returned by a few large cities, by groups of municipalities and district boards, by large zemindars, by chambers of commerce and by universities. In the Indian Legislative Council ten non-officials were admitted, four seats were allotted to recommendation by the non-official members of the four provincial councils, and one to the Calcutta Chamber of Commerce. Abandoning as hopeless the idea of securing the vast residuary area and population of the country by any quasi-elective machinery, the authorities fell back for the filling of the five remaining non-official seats upon the process of nomination by the Governor-General. (Paragraph 71 of the Joint Report.)

Summary.

8. To sum up then, though the reforms of 1861 introduced a small non-official element, no attempt was made to create representative chambers. In 1892 the provincial legislative councils were constituted with a view to making them representative of the more important communities, classes and interests, but the regulations under section 1 (4) of the Indian Councils Act, 1892, did not themselves recognise communal divisions. The Indian Legislative Council gave representation to provinces, and left communal and class representation to be secured by direct nomination. The elective principle appeared under the disguise of nomination upon recommendation.

Chapter III.

The Morley-Minto Reforms of 1909.

The working of the Indian Councils Act, 1892, and Lord Minto's

9. Rather more than five years after the Indian Councils Act, 1892, had been passed Lord George Hamilton ordered the working of the regulations to be reviewed with the object of ascertaining how far they had secured the representation of all important classes.

Committee of August 1906.

The results were described in the following passage in paragraph 70 of the Joint Report:—

> "Inquiry showed both in Madras and Bombay that the district boards and municipalities which constituted the nominating authorities for rural areas tended to nominate lawyers far too exclusively, but neither Government was disposed to press for any change. In Bengal however one seat was transferred from the rural municipalities to the large landowners who had hitherto been given a right of nomination."

Lord Minto assumed office as the Viceroy and Governor General of India on the 18th November 1905. In August 1906 a Committee of the Executive Council was formed to consider a number of suggestions for reform, including, among other matters, increased representation on the Indian and provincial Legislative Councils.

The All-India Muslim Deputation of October 1906.

10. While the Committee was at work, a deputation representing the Muslims of India waited upon His Excellency on the 1st October 1906, and presented an address which was read by H. H. the Aga Khan. It was in this address that the claim to separate Muslim representation was made; and it was in the reply given by His Excellency that the claim is commonly understood to have been conceded. Both the address therefore and Lord Minto's reply are documents of the highest importance in tracing the history of communal electorates in the country, and no apology is needed for examining their contents at some length. In the course of the address the deputation made the following points:—

(1) that in the whole of India the Muslims number over 62 millions or between 1-5th and 1-4th of the total population;

(2) that if Animists and depressed classes ordinarily classed as Hindus, but not properly Hindus, were deducted, the proportion of Muslims to Hindus would be larger than is commonly shown;

(3) that as their numbers exceed the entire population of any first-class European power, except Russia, Muslims might justly claim adequate recognition as an important factor in the State;

(4) that the position accorded to the Muslim community in any kind of representation, direct or indirect, and in all other ways affecting their status and influence should be commensurate not merely with their numerical strength, but also with their political importance and the value of the contribution which they make to the defence of the Empire;

(5) that the representation hitherto accorded to them, almost entirely by nomination, had been inadequate to their requirements and had not always carried with it the

approval of those whom the nominees were selected to represent;

(6) that while Muslims are a distinct community with additional interests of their own, which are not shared by other communities, no Muslim would ever be returned by the existing electoral bodies, unless he worked in sympathy with the Hindu majority in all matters of importance.

On these grounds the deputation made the following proposals:—

(*a*) that in the case of municipal and district boards the number of Hindus and Muslims entitled to seats should be declared; such proportion being determined in accordance with the numerical strength, social status, local influence and special requirements of either community and that each community should be allowed to return their own representatives, as in the Aligarh Municipality and in many towns in the Punjab;

(*b*) that in the case of senates and syndicates of Indian universities there should, so far as possible, be an authoritative declaration of the proportion in which the Muslims are entitled to be represented in either body;

(*c*) that in the case of provincial Legislative Councils the proportion of Muslim representatives should be determined and declared with due regard to the considerations noted above, and that the important Muslim land-lords, lawyers and merchants and representatives of other important interests, the Muslim members of district boards and municipalities and the Muslim graduates of universities of a certain standing, say five years, should be formed into electoral colleges and be authorised to return the number of members that may be declared to be eligible;

(*d*) for their representation in the Imperial Legislative Council they suggested—

(*i*) that the proportion of Muslims should not be determined on the basis of numerical strength and that they should never be an ineffective minority;

(*ii*) that as far as possible appointment by election should be given preference over nomination;

(*iii*) that for the purpose of choosing Muslim members, Muslim land-owners, lawyers and merchants, and representatives of every important interest of a status to be subsequently determined by Government, Muslim members of provincial Legislative Councils and Muslim fellows of universities should be invested with electoral powers.

Lord Minto's reply.

11. His Excellency's reply to the address contained the following observations:—

> "The pith of your address, as I understand it, is a claim that under any system of representation, whether it affects a municipality or a district board or a legislative council, in which it is proposed to introduce or increase an electoral organisation, the Muslim community should be represented as a community. You point out that in many cases electoral bodies as now constituted cannot be expected to return a Muslim candidate, and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his community whom he would in no way represent; and you justly claim that your position should be estimated not only on your numerical strength but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you. Please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent."

The Councils Committee, 1906.

12. The Council's Committee, to which reference has been made in paragraph 9, gave special attention to the problem of Muslim representation. As a result of their enquiries, the Committee found that the Muslims had not been sufficiently represented on the existing councils, that the few elected members had not been really representative, and that nomination had failed to secure the appointment of Muslims of the class desired by the community. In order to remove these grievances they considered two measures necessary. In the first place they suggesed that, in addition to the small number of Muslims who might be able to secure election in the ordinary manner, a certain number of seats should be assigned to be filled exclusively by Muslims; and secondly that for the purpose of filling those seats, or a proportion of them, a separate Muslim electorate should be formed. The Committee made no specific proposals as to the number of seats to be assigned to the Muslims on the Provincial Legislative Councils, but suggested an electorate comprising payers of land revenue and income-tax and registered graduates of the universities. As regards the Imperial Legislative Council they considered that a total strength of 6 or perhaps 7 members in a Council of 46 would not be an excessive proportion for a community of such importance. Accordingly they proposed that 4 seats should be set apart for Muslims, two to be elected in rotation by Bengal, Eastern Bengal and Assam, United Provinces and the Punjab and Bombay, and two to be filled by nomination by the Viceroy. For the elected seats

they suggested an electorate consisting of the Muslim non-official members of the provincial legislative councils, the Muslim fellows of the universities and Muslims paying income-tax or land revenue above a certain figure.

13. These proposals were supported by the Government of India and communicated to the Secretary of State, who accepted the principle that the Muslim community was entitled to a special representation on the Governor-General's and local legislative councils commensurate with its numbers and political and historical importance. This correspondence led to the issue by the Government of India of their letter No. 2310—17, dated the 24th August 1907, addressed to local Governments on the subject of the reforms with instructions to consult important bodies and individual representatives of various classes of the community before submiting their own conclusions to the Government of India. With regard to Hindu-Muslim representation the following points were taken by the Government of India in their letter:— Correspondence between the Government of India and the Secretary of State, and with the local Governments.

(1) The reply of His Excellency to the Muslim Deputation of the 1st October 1906 was affirmed.

(2) It was admitted that comparatively few Muslims had been elected under the existing system, and that nomination had not been satisfactory.

(3) It was assumed that a small number of Muslims would be elected in the ordinary manner, especially in Eastern Bengal and Assam and the Punjab, where they formed the majority of the population, and

(4) the suggestion was made that in each council a certain number of seats should be assigned to be filled exclusively by Muslims, some by special Muslim electorates and some by nomination. In the Imperial Legislative Council it proposed that two members should be elected by Muslims, and that not less than two Muslim members should be nominated.

In the course of the same letter the following observations were made:—

> As the constitution of the provincial legislative councils must largely depend upon the municipalities and district boards it is suggested that local Governments should introduce into their systems of election and nomination for these boards the principal of assigning a fixed proportion of seats to each of the leading classes into which the population is divided by race, caste or religion, and permitting the members of that class to select its own representative.

To this passage subsequent reference will be made in the later chapter of this note which deals with the subject of communal representation on local bodies.

14. When addressing the Secretary of Sate in their despach No. 21, dated the 1st October 1908, the Government of India Hindu criticism of the

special representation of Muslims.

mentioned that all local Governments approved of the proposals for the special representation of Muslims. They then added—

> "These proposals are as a rule adversely criticised by the Hindus who regard them as an attempt to set one religion against the other, and thus to create a counterpoise to the influence of the educated middle class. Some Hindus, however, recognise the expediency of giving special representation to the Muslim community and the Bombay Presidency Association, while they object strongly to the creation of a special Muslim electorate, made provision in their scheme of a council for the election of two members by the Muslim community. Notwithstanding their formal protest against the principle of religious representation the Association doubtless realise that the Indian Muslims are much more than a religious body. They form, in fact, an absolutely separate community distinct by marriage, food and custom and claiming in many cases to belong to a different race from the Hindus."

The letter then went on to examine the extent of the representation to be given to Muslims.

Lord Morley's declaration in Parliament.

15. Subsequent discussions turned on the nature of the method by which Muslim representation should be secured, culminating in an address presented in London to Lord Morley by a Muslim deputation protesting against certain mixed electoral colleges which had been suggested. Greater interest attaches, however, to the manner in which the suggestion for separate Muslim representation was received in Parliament. The second Reading of the Bill was moved by the Secretary of State in the House of Lords on the 23rd February 1909. In the course of his speech Lord Morley said—

> "The Muslims demand three things. I had the pleasure of receiving a deputation from them and I know very well what is in their minds. They demand an election of their own representatives to these councils in all the stages just as in Cyprus, where I think Muslims vote by themselves; they have nine votes and the non-Muslims have three or the other way about; so in Bohemia where the Germans vote alone and have their own register; therefore we are not without a precedent and a parallel for the idea of a separate register. Secondly, they want a number of seats in excess of their numerical strength. These two demands we are quite ready and intend to meet in full."

The second Reading of the Indian Councils Bill was moved in the House of Commons on the 2nd April 1909, by Mr. Buchanan who stated that Muslim representation would be obtained in the future in different ways in different provinces; in some provinces by a system of Muslim electorates specially constructed; in others by asking the Muslim associations to name representatives; in

others, at any rate for the time being, by nomination. In a later stage of the same debate Mr. Asquith said—

> "Undoubtedly there will be a separate register for Muslims. To us here at first sight it looks an objectionable thing because it discriminates between people and segregates them into classes on the basis of religious creed. I do not think that is a very formidable objection. The distinction between Muslim and Hindu is not merely religious, but it cuts deep down into the traditions of the historic past and is also differentiated by the habits and social customs of the cummunity."

16. During the period when these reforms were under discussion, there may be said to have been three schools of opinion on the subject of Muslim representation, namely— Three schools of opinion.

(1) Extreme separatists who insisted on absolute isolation;

(2) Moderate separatists who would give the Muslims full and adequate representation by means of special Muslim electorates and would also maintain their participation in the elections of the general electorate;

(3) Non-separatists who objected to any sort of class representation by separate electorates.

The proposals of the Government of India were those of the second class, and in a speech in the Imperial Legislative Council on the 29th of March 1909, Mr. Gokhale said that his views on the subject of Muslim representation were practically the same as those of the Government of India. The words he used were as follows:—

> "I think the most reasonable plan is first to throw open a substantial minimum of seats to election on a territorial basis in which all qualified to vote should take part without distinction of race or creed. And then supplementary elections should be held for minorities which numerically or otherwise are important enough to need special representation, and these should be confined to members of minorities only."

Later on he added—

> "The idea of two water-tight compartments for Hindus and Muslims separately will not promote the best interests of the country, and moreover it is really not feasible, for there cannot be only two such compartments unless all minorities other than Muslims are to be joined to the Hindus, in which case the division will practically be Muslims and non-Muslims."

In replying in the Imperial Legislative Council to the Hon'ble Mr. Dadabhoy who had taken exception to class representation as such, the Hon'ble Sir Harvey Adamson said it was necessary to provide some means by which Muslims may obtain such number of additional seats as will bring their representation into due pro-

portion; the advantage of the plan adopted was that it provided for composite action by all communities up to a certain point, and then prevented injustice in practical operation to minorities by giving them special supplementary electorates of their own.

Communal representation in the 1909 Councils.

17. The result then of the Morley-Minto reforms was that the constitution of the Provincial Legislative Councils was based upon a system of representation of classes and interests consisting of basic constituencies representing land-holders, groups of district boards, and groups of municipal townships. There were no territorial constituencies properly so-called, but the three Presidency corporations returned special representatives, and except in their case, no individual town or city had its own special member. To these basic classes were added representatives of universities, chambers of commerce, trades associations and other like interests, the members returned being in the great majority of cases elected, but in some few instances nominated. On these constituencies there were super-imposed certain special Muslim electorates. Thus besides voting in their own special constituencies, Muslims also voted in the general electorates, to counterpoise which these constituencies were themselves created. These special Muslim constituencies were on a territorial basis in the sense only that the province was divided territorially for the purpose of the election of Muslim representatives. Thus the Bombay Presidency was divided into four " areas " (they were not described as constituencies in the electoral rules), namely, the Southern, Northern and Central Divisions and the City of Bombay.

The double vote of the Muslims and the differentiation of their franchise.

18. The double vote possessed by Muslims was a source of grievance to other communities, who also resented the fact that in the special Muslim constituencies the franchise which was based upon property, educational and service qualifications went lower than the franchise in the general constituencies. The necessity for devising special electorates for Muslims in place of the utilisation of machinery already to hand in the shape of existing bodies, institutions and associations, or by the adoption of standards such as the payment of land revenue, had in effect resulted in the creation of special franchise lists reaching much lower down in the social scale and in consequence in many provinces there were persons with property or other qualifications who had a vote if they were Muslims, but not if they belonged to any other creed. There were no special constituencies for Muslims either in the Punjab, where it was felt that they would secure sufficient representatives in the general constituencies, or in Burma and the Central Provinces, where their numbers are insignificant. In the remaining provinces, except Assam, the total strength of the Councils was 50: the special Muslim constituencies varied from 2 in Madras to 5 in Bengal. In Assam the strength of the Council was 30, and there were 2 special Muslim constituencies. Under the regulations for the constitution and functions of the Legislative Council of the Governor-General issued on November 15, 1909, and revised in 1913, the Additional Members of the Council were sixty in number including five elected by special Muslim constituencies,

one each for the three Presidencies, one for the United Provinces, and one for Bihar and Orissa.

19. The most important point to stress with reference to the introduction of special Muslim electorates at the time of the Morley-Minto reforms was that they were accepted as an item in the generally approved policy that representation in the Councils should be representation of the various communities, classes and interests of which the country was composed. The need for securing adequate Muslim representation was recognised no less in 1892 than in 1909. When speaking on the 1892 Bill in the House of Lords Lord Kimberley had said " there must be found some mode in India of seeing that minorities such as the important body of Muslims are fully represented ". The reforms of 1892 were found to have failed to secure the adequate representation of Muslims, and it was in these circumstances that Parliament accepted the solution of special Muslim constituencies. In the circumstances of the case it would not be entirely accurate to describe the creation of a Muslim electorate, at the time when the elective principle was first openly recognised, as a novel departure from a previously accepted policy; in effect, these separate electorates confirmed the policy already accepted of representation by interests, including communal interests. Secondly, the acceptance by Lord Morley of communal electorates on behalf of His Majesty's Government requires to be read in the closest possible relation to the nature of the reforms which were being introduced at the time. The limited extent of those reforms was expressed in Lord Morley's well-known disclaimer—" If it could be said that this chapter of reforms led directly or indirectly to the establishment of a parliamentary system in India, I for one would have nothing to do with it ". With regard to the manner and form of the Muslim electorates of 1909, the three points deserve to be borne in mind— Summary.

(1) that the Muslim electorates were superimposed upon the general electorates, in which also qualified Muslims were competent to vote;

(2) that the political importance of the community as distinct from its numerical strength was accepted by Lord Morley as a basis for special representation;

(3) that the franchise in the Muslim constituencies, which elected direct to the Councils, was wholly different from the franchise qualifications in the general constituencies, in which the district boards and municipalities intervened between the primary voters and their representations in the Councils.

Chapter IV.

The Lucknow Pact of December 1916.

20. In the course of the year 1915 there had been a definite rapprochement between some of the leaders of advanced Hindu The Lucknow Pact.

and advanced Muslim opinion. The All-India Muslim League, which had until that time existed mainly for the protection of Muslim interests, had gradually passed under the control of those members of the young Muslim party who upheld the new ideal of self-government for India. Towards the end of 1916 when it had become known that Lord Chelmsford's Government was engaged on an elaborate scheme of post-war reforms, nineteen members of the Imperial Legislative Council put together and published a scheme of their own. This scheme figured on the list of business which came up for consideration in the Lucknow meetings of the Congress and of the Muslim League held in December 1916. As a result of skilful negotiations, the Muslim League under the guidance of the young party of political Muslims agreed to accept the modified scheme of the nineteen members on condition that the interests of their community were safeguarded by the concession of very heavy Muslim representation upon certain of the proposed councils. This compact was ratified at Lucknow, the net result being that the Congress and the Muslim League jointly accepted the scheme of the nineteen members as amplified and amended in certain particulars. The Congress-League scheme comprised direct election, so far as possible on a territorial basis, and separate electorates for Muslims who, however, were not to be permitted to vote in the general electorates. The portion of the scheme relating to the communal representation of Muslims read as follows:—

> "Adequate provision should be made for the representation of important minorities by election, and the Muslims should be represented through special electorates on the provincial Legislative Councils in the following proportions:—
>
> | | |
> |---|---|
> | Punjab . . . . . | One-half of the elected Indian members. |
> | United Provinces . . . . | 30 per cent. |
> | Bengal . . . . . | 40 per cent. |
> | Bihar and Orissa . . . . | 25 per cent. |
> | Central Provinces . . . . | 15 per cent. |
> | Madras . . . . . | 15 per cent. |
> | Bombay . . . . . | One-third." |

In regard to the Indian legislature the scheme proposed—

(1) that its strength should be one hundred and fifty;

(2) that four-fifths of the members should be elected; and

(3) that the franchise should be widened as far as possible on the lines of the Muslim electorates, and the elected members of the Provincial Legislative Councils should also form an electorate for the return of members to the Imperial Legislative Council.

21. The effect of the Congress-League scheme can be judged from the following table which gives a comparison of the representation suggested for Muslims with the representation which they enjoyed under the Morley-Minto scheme in the Councils in existence at the time when the Lucknow Pact was ratified:— Its bearing on the representation of the communities.

Province.	* Population.	Muslim population.	† Strength of Council in 1917.	‡ No. of sitting Muslim members and percentage.	Percentage proposed under Congress-League Scheme.
Bengal . .	44·5 millions	24 millions or 52·6 per cent.	48	5 or 10·4 per cent.	40 per cent.
Bihar and Orissa	34·5 ,,	3·7 millions or 10·5 per cent.	40	4 or 10 per cent.	25 ,,
Bombay . .	19·7 ,,	4 millions or 20·4 per cent.	42	4 or 9·5 per cent.	33·3 ,,
Central Provinces	13·9 ,,	6 millions or 4·3 per cent.	24	*Nil.*	15 ,,
Madras . .	41·4 ,,	2·7 millions or 6·5 per cent.	41	2 or 4·8 per cent.	15 ,,
Punjab . .	20 ,,	11 millions or 54·8 per cent.	28	§ *Nil.*	50 ,,
United Provinces	47·2 ,,	6·7 millions or 14 per cent.	47	4 or 8 per cent.	30 ,,

* Figures from census of 1911.

† The figures exclude seats for experts.

‡ Elected by the Muslim community.

§ No seats reserved for Muslims, but there were at the time seven Muslim members of whom five were elected.

The percentage of Muslim seats to the Muslim population worked out as follows:—

Province.	Muslim percentage of population. 1	Percentage of Muslim seats proposed. 2	Percentage (2) of (1). 3
Bengal	52·6	40	76
Bihar and Orissa	10·5	25	238
Bombay	20·4	33·3	163
Central Provinces	4·3	15	349
Madras	6·5	15	231
Punjab	54·8	50	91
United Provinces	14·0	50	214

The result would have been that while Bengal Muslims would have obtained only three-quarters and the Punjab Muslims nine-tenths of what they would receive upon a population basis, the Muslims of other provinces received extremely liberal representation. These concessions indicated the extent to which Congress leaders were prepared to go in order to secure the adherence of Muslims to their reforms proposals. The system of communal representation proposed in the Congress-League scheme, and accepted in principle in the Reforms of 1919, laying down hard and fast proportions of Muslim representation went far beyond the Morley-Minto system of communal representation in which a number of special Muslim seats were superimposed over and above the general constituencies in which Muslims might vote in order to adjust inequalities in representation. This brought the position closer to that adopted by those who, as mentioned in paragraph 11 of this note, were described in 1909 as the extreme separatists who favoured the complete isolation of the communities. Lastly, the Lucknow Pact included separate Muslim electorates in the Punjab and the Central Provinces, where they had not yet been introduced.

Chapter V.

The Reforms of 1919.

The views of the Joint Authors.

22. The views of the Joint Authors on the subject of communal electorates as expressed in paragraph 227 and the immediately succeeding paragraphs of their report have been cited in the first paragraph of this note; but no reference has yet been given to the views expressed by the Joint Authors in paragraph 225 of their report on the manner in which in their opinion the electorate should be formed. After giving reasons why they refrained from any definite proposals for the composition of the electorate, they made clear the broad principles on which they considered that the electorate should rest. Thus—

> "The first step must be not a hard and fast adjustment of the composition of the councils to the various interests of each province as estimated from headquarters, but a careful survey of all the material available in the province for an electorate. We must in fact measure the number of persons who can in the different parts of the country be reasonably entrusted with the duties of citizenship. We must ascertain what sort of franchise will be suited to local conditions, and how interests that may be unable to find adequate representation in such constituencies are to be represented."

The intention of the Joint Authors was therefore that as a matter of principle the representation of interests should not appear in the electorates; the last sentence, however, appeared to contemplate the possibility of constituencies for certain interests with special electorates of their own. Having in their view the introduction by progressive stages of a system of responsible govern-

ment in India, the Joint Authors are seen therefore to have recommended a franchise system capable of development on democratic lines. Proceeding then to "the most difficult question which arises in connection with elected assemblies" namely communal electorates, for the reasons already stated, they decided that they must be retained for Muslims and introduced for Sikhs (in the Punjab); the arrangements to be made they left undefined, and they did not express any opinion on the extent of Muslim representation suggested in the Congress-League Scheme; but

(*a*) they agreed with the authors of that scheme that Muslims should not have votes both in their own special and in the general electorates (paragraph 163), and

(*b*) they recorded their opinion that there should be no separate communal representation for Muslims in any province where they formed a majority of the voters (paragraph 231).

It was not known at that time how the voting strength of the community would work out, but the Congress-League scheme conceded communal representation for Muslims in all provinces (except Burma which was not mentioned); and in so doing supported the extension of these electorates to the Punjab and the Central Provinces where they had not then been introduced.

The Franchise Committee's proposals.

23. The problem of communal electorates was expressly mentioned in the terms of reference to the Franchise Committee who were required *inter alia* to advise:—

> how far representation can be adequately and effectively secured by territorial electorates, or where circumstances seem to require it in order to secure adequate representation of minorities, of special interests or of backward classes by (*i*) special or communal electorates; or (*ii*) reserving elective seats for special classes in plural constituencies, or (*iii*) nomination in such measure as the exigencies of fair and adequate representation entail; or (*iv*) other expedients for instance proportional representation, etc.

It is no part of this note to examine the extent to which the Franchise Committee succeeded in proposing an electorate, based not upon interests, but measuring "the number of persons who can be reasonably entrusted with the duties of citizenship", but the Committee in paragraph 10 of its report came to an early decision that there should be "the same qualification for all communities within the same area, although this will enfranchise a smaller proportion of Muslims than of non-Muslims". Muslim representation then was to be secured not by separate electorates, with different franchise qualifications but by a separate register prepared from the same general body of electors for separate Muslim constituencies; for in considering the problem of communal representation the Committee decided (paragraph 15) not merely that Muslims must have separate representation in all

provinces (Burma was not under discussion), but (paragraph 16) that there should also be separate communal representation for Sikhs in the Punjab, (as recommended by the Joint Authors), together with (paragraph 17) communal representation for Indian Christians in Madras; for Europeans in Madras, Bombay, Bengal, the United Provinces and Bihar and Orissa; and for Anglo-Indians in Madras and Bengal. The Committee received a number of other claims to communal representation from minority communities, for instance, the Mahishyas of Bengal and Assam, the Marwaris of Calcutta, the domiciled Bengali community of Bihar and Orissa, the Ahoms of Assam, the Mahars of the Central Provinces, the Oriyas of Madras and the Parsis of Bombay. These claims they dismissed. On the subject of the Mahrattas and allied castes in the Deccan and Southern divisions of the Bombay Presidency, there was some difference of opinion among the members of the Committee, but the majority were of opinion that no special treatment was required. Lastly, the problem was raised in a very acute form by the claim of the non-Brahmans of the Madras Presidency to communal representation. The Committee felt itself unable (paragraph 20) to recommend the constitution for non-Brahmans of a separate communal electorate (that is to say separate communal representation drawn from a separate register) and added—"Whatever value and propriety such a measure may have for protecting a minority against the pressure of other communities or interests, it would be unreasonable to adopt this expedient for protecting a community which has an overwhelming electoral strength". The Committee left the problem of the non-Brahmans undecided, with the expression of their hope that before the electoral machinery was completed, the parties to the controversy might have agreed upon some solution of the question, for example, by the provision of plural member constituencies and a certain proportion of guaranteed non-Brahman seats.

With regard to the proportion of Muslim seats, the Committee felt themselves bound by the terms of the Lucknow Pact, and gave their reasons in the following terms:—

> "The great majority of Indian witnesses and the representatives of associations, political and non-political alike, not excluding those in which Hindu interests preponderate, adhered to this compact, and it seems to us that any departure from its terms would revive in an aggravated form a controversy which it has done much to compose. In the provinces of Bombay, Bengal, the United Provinces, the Punjab and Bihar and Orissa, the local Governments recommended us to adhere to the compact whilst the Madras Government provided in the first of its alternative schemes approximately the proportion of Muslim representation which the compact fixed. In the interests of India as a whole, we have, therefore, felt ourselves amply justified in accepting the compact as a guide in allocating the proportion of Muslim representation in the Councils."

The Committee recommended separate communal seats for Muslims, Sikhs and European Commerce in the Assembly, and for Muslims and Sikhs in the Council of State. The formation of the Council of State was subsequently wholly changed on the recommendation of the Joint Select Committee of Parliament and the proposals of the Franchise Committee for indirect election to both bodies were set aside. The detailed recommendations of the Franchise Committee on this subject need not therefore be examined in this note.

Muslim anxiety.

24. The condemnation of communal electorates in paragraphs 228, 229 and 230 of the Joint Report had given rise to fears among Muslims that they might lose their special representation under the reformed system of Government. His Excellency Lord Chemlsford therefore took the opportunity in September 1918, shortly before the Franchise Committee sat, of including in his speech at the opening of the Imperial Legislative Council a reassuring statement on the subject of communal representation. The words which His Excellency used were as follows:—

> "……Hon'ble Members will probably expect something from me on the vexed question of communal representation. I cannot help thinking that much more has been read into our proposals than they were intended to convey. We wished indeed to make it clear that in our opinion communal electorates were to be deprecated for the reasons set out in our report. But it was in the main to the method of securing communal representation by communal electorates that we took exception, and not to communal representation itself. The careful reader of the report will see that we regard this as inevitable in India and that we clearly contemplate the representation of those communities and classes and interests who prove their case before the Committee shortly to be appointed to examine the question. I am most anxious that the fullest representation should be secured to the various classes and communities in India; but I am frankly doubtful myself whether the best method for securing that representation is through a system of separate electorates. However, I am content to leave the unravelling of this important question in the hands of the Committee, who will have the fullest evidence placed before them and will be free to make such recommendations as they think right unfettered by our Report."

The Government of India's Fifth Reforms Despatch.

25. The views of the Government of India on the recommendations of the Franchise Committee on the subject of communal representations were expressed in paragraphs 18 to 27 of their Fifth Reforms Despatch No. 4, dated the 23rd April 1919. In the first place, they drew attention to the fact that communal electorates were now proposed not only for Muslims everywhere and for Sikhs in the Punjab, but also for Indian Christians in Madras,

Anglo-Indians in Madras and Bengal, and Europeans in the three Presidencies, the United Provinces and Bihar and Orissa. The Government of India then observed—

> "……We feel the objections of principle to the communal system as strongly as the authors of the Reforms report, but see no advantage at this stage in reiterating them. India is not prepared to take the first steps forward towards responsible Government upon any other road. The road does not lead directly to that goal and we can only echo the hope expressed by the Committee that it will be possible at no very distant date to merge all communities in one general electorate. Under existing conditions we see no ground on which the Committee's proposals can be questioned. As regards the minor communities we accept the details also, except in so far as the distribution of the elective seats for Europeans requires further examination in communication with local Governments, in as much as the Committee do not appear to have considered the complication introduced by the presence of a large military population."

Having accepted the recommendation of the Franchise Committee that separate communal representation must be retained for Muslims and extended in certain provinces to other minority communities, the Government of India then proceeded to discuss the number of seats to be given to the Muslims. They noted that local Governments had not been unanimous in subscribing to the Lucknow Compact as giving a guide according to which the proportion of representation should be fixed and drew attention to the fact that the Government of Madras had framed their own proposals for Muslim representation without regard to the compact. The Bombay Government, while adopting the compact, did not rule out from discussion a scheme of representation on the basis of population. The Chief Commissioner of the Central Provinces was opposed to separate Muslim electorates and considered that the percentage proposed in the compact was wholly disproportionate to the strength and standing of the community. The Chief Commissioner of Assam thought it was a mistake, even from the Muslim point of view, to give that community representation in excess of their numerical proportion. The authors of the Reforms report had laid it down that the effect of the agreement upon other interests must be examined, and they had also set aside as wholly unworkable the second provision in the compact (not previously mentioned in this note) by which proposals affecting the interests of other communities should be considered in the legislatures only with the assent of the large majority of the community affected. The Joint Authors, moveover, had thought that special electorates for Muslims could be admitted only in provinces where they were in a minority of voters. The Franchise Committee had found from their rough estimates that Muslims would be in a

minority of voters both in Bengal and in the Punjab. As regards Bengal the Government of India agreed that the Committee was clearly right: as regards the Punjab their own calculations went to show that the Muslim voters were in a slight majority over the combined strength of Hindu and Sikh voters, but the margin was not great and it was possible that actual enumeration might convert it into a minority. However that might be, the Muslims were in any case far the strongest single community in the Punjab, and, as the Sikhs claim to separate representation was to be conceded, it was clearly considerations of expediency rather than logic that would place the large majority of residuary voters in separate constituencies. Lastly the Government of India drew attention to the effect of the Congress-League agreement in giving the Bengal and Punjab Muslims less than they would receive upon a population basis, while the Muslims of other provinces received, some of them, extravagently good terms. The Government of India were of opinion that the proportions laid down in the Lucknow Pact could not be taken to represent the right relation either between Muslims in different provinces or between Muslims and the rest of the communities.

The Government of India then proceeded to suggest certain considerations which they would themselves have borne in mind, had they possessed an entirely free hand to establish a ratio of Muslim seats which would bear a closer relation with their strength as a community, while at the same time fulfilling undertakings given to Muslims to safeguard them as a minority. The considerations which the Government of India stated that they would necessarily take into account were five in number—

(1) The Muslims had been definitely promised some electoral advantage on the ground of their political importance.

(2) The Muslims are the poorer community, and, therefore, any property qualification common to them and the Hindus would make the Muslim electorates smaller in proportion to the Muslim census than would be the case with the Hindus.

(3) The census strength of the Muslims does not correspond to their political strength. In Bengal and Assam the Muslims are politically weaker than their numbers would indicate while in the United Provinces with 14 per cent. of the population they are incomparably stronger than in Bihar and Orissa with 10·5 per cent.

(4) Though a majority can always impose its will upon a minority, the effectiveness of a minority depends upon its being large enough to have the sense of not being entirely overwhelmed.

(5) Whatever advantage is given to the Muslims is taken away from some other interest or interests.

The Government of India concluded that these considerations would suggest a system of weighting leading to very different results from those agreed upon at Lucknow; they took the view however that

the Congress-League compact was an accomplished fact and a landmark in Indian politics which they could not possibly ignore; they felt, therefore, like Lord Southborough's Committee, that whatever the defects of the compromise it was not one that they ought to reopen. They, therefore, accepted the conclusions of the Committee in favour of the proportions agreed upon in the Lucknow Pact with one exception. The Government of India felt that the Muslim representation proposed for Bengal was manifestly insufficient; they doubted whether the claims of the Muslim population of Eastern Bengal had been adequately pressed when the Congress-League compact was in the making. They recommended, therefore, that the Bengal Muslims should be allotted 44 seats instead of 34 and left it for further consideration whether the addition should be obtained by enlarging the Council or by withdrawing seats from other interests or by a combination of both plans. One member of the Executive Council of the Governor General was in favour of accepting the Committee's report.

The Government of India agreed with the Committee that there was no justification for admitting the claims for separate electorates put forward by the smaller communities mentioned in paragraph 18 of their report, but stated that they had the greatest difficulty in accepting the proposals of the Committee in regard to the non-Brahmans in Madras. They felt that Government could not evade responsibility for ensuring the adequate representation of the non-Brahmans. They thought that the Committee had possibly not attached sufficient weight to the immense power of the Brahmans in combination. In the opinion of the Government of India recent experience in Madras had shown how inadequately non-Brahmans were likely to be represented in Council unless some special provision were made for them. The Government of India considered that they would find it hard to meet the charge that they were acquiescing in the establishment of an oligarchy in Madras unless something were done to secure to the non-Brahmans a fair share in the legislature, and that it would be a mistake to complete the electoral arrangements and leave it to the non-Brahmans to move. They added that they wished to consult the Madras Government in regard to the reservation of non-Brahman seats in plural constituencies. They observed, moreover, that if divisions in the Hindu community were once recognised in the electorate, as in the case of non-Brahmans in Madras, it would become extremely difficult to resist the claims of the Mahrattas in Bombay. This also was a matter which the Government of India wished to reserve for further consideration with the Government of Bombay.

There were some differences between the Government of India and the Franchise Committee on the extent of communal representation in the Central legislature. The Committee had applied the Congress-League compact, which related to the Indian legislature as a whole to the Assembly as a unit by itself, and recommended 24 Muslim seats out of 73 Indian elected seats; the Government of India based their proposals on Muslim strength in

the different provinces and suggested 12 Muslim seats out of 69 Indian elected seats. The Government of India were, however, prepared to accept the Committee's proposals, with one dissentient who thought the Muslim representation excessive. In the opinion of the Government of India the Committee had unduly restricted European representation on the Assembly; they reserved their opinion on that point. With regard to the Council of State, after opposing the Committee's suggestions for the form in which it should be elected, the Government of India stated that they did not attach the same weight as the Committee had done to the need for nicely adjusting the claims of the provinces and the communities; their aim was the representation of all important interests on a broad scale, and nomination would be used to adjust inequalities in communal representation.

The report of the Joint Select Committee of Parliament.

26. We can now turn to the recommendations of the Joint Select Committee of Parliament, noting at once that contrary to the recommendations of the Franchise Committee, the Select Committee required direct election to both chambers of the Indian legislature and also insisted upon the constitution of the Council of State as "a true second Chamber". The Select Committee avoided entering into any discussion of the arguments for or against communal electorates, but—

(1) differing from the Government of India they accepted "the recommendations of the Franchise Committee in respect of the proportionate representation of Muslims, based on the Lucknow pact";

(2) they considered that in the Madras Presidency the non-Brahmans must be provided with separate representation by means of the reservation of seats. The Brahmans and non-Brahmans should be invited to settle the matter by negotiation among themselves; and it would only be, if agreement cannot be reached in that way, that the decision should be referred to an arbitrator appointed for the purpose by the Government of India.

(3) The Committee recommended that similar treatment should be accorded to the Mahrattas in the Bombay Presidency.

(4) The Committee recommended that the Government of India should be instructed to consult with the Government of Bengal in respect of the representation of Europeans in Bengal. It appeared to the Committee that there were good reasons for a readjustment of that representation. The recommendations of the Franchise Committee in respect of European representation in other provinces were accepted.

On the subject of the representation of minorities the Joint Select Committee of Parliament contributed one suggestion. They said that it seemed to them that—

"the principle of proportional representation may be found to be particularly applicable to the circumstances of India,"

and they recommended that—

> " this suggestion be fully explored so that there may be material for consideration by the Statutory Commission when it sits at the end of ten years ".

The debates in Parliament on the Government of India Bill.

27. The problem of communal representation and communal electorates was discussed both in the House of Commons and in the House of Lords when the Government of India Bill was under consideration. On the 3rd December 1919, Colonel Wedgwood moved an amendment to the clause on the composition of the provincial councils to the effect that " at least 60 per cent. of the elected members shall be elected by territorial electorates." In the course of his speech he criticised both the Southborough Report and the Joint Committee for having " widened enormously the scope of special representation "; he expressed himself strongly on the evils of communal representation in particular, and said—

> " The principal on which English representation has been based is that the members represent the whole of the community, and to adopt for India an entirely different system, whereby the representatives represent different sects and religions, is going back on all the principles which have made representation in the House of Commons a model for all other Parliaments in the world. It is most unfortunate that this Bill has been whittled down to establish this communal representation."

Mr. Montagu explained that no one objected to communal representation more than he did; he believed it to be a great mistake, but there was one mistake which would be greater, and that would be to get Legislative Councils in India that were not properly representative of all classes. Mr. Montagu added that if communal elections were provided for temporarily in order to secure proper representation, he believed that they were well worth having. Mr. Spoor, himself a member of the Joint Select Committee, welcomed so definite a pronouncement against communal representation from the Secretary of State, but said that, when sitting with the Joint Committee, his own impression had been that any form of communal representation was neither desirable nor necessary, even in the early stages of the transfer of powers. Other speakers emphasized the strength of feeling in India on the need for separate communal representation in the conditions of the country, and Colonel Wedgwood's amendment was negatived without a division.

In the House of Lords, where Lord Curzon congratulated the Joint Select Committee on " extending in some quarters communal representation ", criticism took a rather different line. Lord Ampthill moved an amendment to insert statutory provision to secure communal electorates for Muslims in all provinces, for Sikhs in the Punjab, for Europeans in Bengal, and for Shudras among Hindus. Lord Lamington wanted reserved seats for the non-

Brahmans safeguarded by provision in the Act. The same point of view was upheld by Lord Sydenham, who said that if the principle of communal representation were recorded as part of the Bill, it would bring contentment and might prevent serious unrest among the non-Brahmans of Southern India. On behalf of His Majesty's Government Lord Sinha stated that if in the opinion of the Government of India there were any communities which required separate representation by communal electorates or by reservation of seats or otherwise, neither the Bill nor the Joint Select Committee's Report precluded them from giving it. Lord Ampthill's amendment was lost by 7 votes to 27.

Revised recommendations of the Government of India for representation in the Central legislature.

28. In the meantime the Government of India were engaged in revising the recommendations made in their Fifth Reforms Despatch on the lines indicated by the Joint Select Committee of Parliament. Local Governments were consulted and revised schemes for the constitution of the Indian and Provincial Legislatures were submitted to the Secretary of State early in 1920. For the Legislative Assembly out of 103 elected seats (including one technically nominated seat to be filled by nomination as the result of an election held in Berar) the Government of India recommended 30 seats for Muslims, 2 for Sikhs and 9 for Europeans. In the Council of State, out of 32 elected members, the Government of India recommended 10 seats for Muslims and 1 for Sikhs. In addition (by the representation of commercial interests) 3 seats were reserved for Europeans. In submitting their proposals to the Secretary of State, the Government of India observed with reference to the distribution of seats in the Legislative Assembly that any scheme of distribution had to satisfy two exacting conditions; it must secure to each province its fair share of the total representation, and it must provide for Muslim representation on the lines of the Lucknow Pact. It was found impossible consistently with these conditions to distribute the general and Muslim seats in each province in strict accordance with the proportions adopted in the case of provincial Legislative Councils.

When these proposals were under preparation the Government of India received a number of further requests for new or increased communal representation, and these they refused. In view of the suggestion made by the Joint Select Committee of Parliament the Government of India investigated the use that might be made of the system of proportional representation, and came to the conclusion that there was no chance whatever of the system being accepted by Muslims as a means to dispense with communal seats.

It may be noted in passing that so far as elections to the legislatures are concerned the system of proportional representation by means of a single transferable vote has been confined to three constituencies only, namely—

(1) the Madras non-Muhammadan constituency of the Council of State,

(2) the Bengal European constituency of the Legislative Assembly, and

(3) the Presidency and Burdwan European constituency of the Bengal Council.

Provision, however, has been made in the electoral rules of the various legislatures to the effect that if a resolution in favour of the introduction of proportional representation is passed, the Government may for any plural member constituencies introduce the method of election by means of the single transferable vote and may make all necessary regulations for the purpose, and to that end may group together single member constituencies so as to make new plural member constituencies. No use has yet been made of this provision in the electoral rules by any provincial Council or by either chamber of the Indian legislature.

Revised recommendations of the Government of India for representation in the Provincial legislatures.

29. In the revised proposals submitted by the Government of India for carrying out the recommendations of the Joint Select Committee of Parliament with regard to the constitution of the provincial legislative Councils, effect was given to the injunction of the Joint Committee that the proposals of the Franchise Committee in respect to the proportional representation of Muslims based on the Lucknow compact should be accepted. An exception was, however, made in the case of the Punjab Legislative Council for which the Government of India proposed to fix the percentage of Muslim seats on the basis of the territorial seats only without including the non-territorial special constituencies in the calculation. The Government of India observed that as the Muslims in the Punjab formed more than half the population it seemed reasonable to assume that they would secure their fair share of the latter seats. The adoption of the Lucknow compact had given rise to claims by the Sikhs which the Government of India were unable to accept, but which were undoubtedly regarded by the Sikh community as warranted by the concessions accorded to the Muslims. The claim put forward and persistently pressed by the Sikhs both in representations to the local Government and to the Government of India was for one-third of the total number of elected seats in the Punjab Legislative Council. The proposal of the local Government on the other hand was that the Sikhs, who constituted 10·7 per cent. of the provincial population, should be allotted 10 out of 58 elected seats or in other words 17 per cent., which gave them as much as was consistent with the just treatment of the Hindus who formed 34 per cent. of the population. In order to satisfy the claims of the Sikhs it would have been necessary either to revise the Lucknow Pact in relation to the Punjab or to commit injustice to the Hindus: for that reason the Government of India did not support any addition to the 10 seats recommended by the local Government.

The representation of Europeans in Bengal was further examined. The Bengal Government proposed that out of 116 elected seats the number of European and Anglo-Indian seats should be fixed at 21. This would comprise 12 seats for European commerce, 6 general European and 3 Anglo-Indian seats. The Government of India considered the proposal of the local Govern-

ment to be in accordance with the views of the Joint Committee. It extended to the European community the principle which was being applied in the case of other minorities, and assigned to them a representation which was felt to be not greater than their importance in the province and the protection of their legitimate interests required.

In Madras the Brahmans and non-Brahmans failed to come to terms, and Lord Meston was appointed to arbitrate. He awarded the non-Brahmans 28 out of 65 seats which they regarded as inadequate. The Government of India supported Lord Meston's award.

Similarly, in Bombay negotiations between the Mahrattas and non-Mahrattas failed, and Sir John Heaton was appointed to arbitrate. In his award, which was supported by the Government of India, he recommended special Mahratta representation in seven constituencies; in three other constituencies a seat was to be reserved by rotation for a Mahratta representative. The award contained one interesting feature. Since reservation was an experimental device the arbitrator considered it desirable to leave to absolutely free election one multiple constituency in which a distinct majority of the population was Mahratta. The Satara District constituency was selected for this purpose.

The second report of the Joint Select Committee of Parliament.

30. When these proposals came before the Joint Select Committee of Parliament they accepted the award for the reservation of seats for non-Brahmans in Madras and made one small change in the Mahratta award omitting any reservation of a seat for Mahrattas in one of the non-Muhammadan constituencies of Bombay city. The Committee then dealt with certain objections raised by the Madras non-Brahmans with regard to the method of reservation of seats and observed:—

> "The Committee's intention in recommending the reservation of seats for the non-Brahman and Mahratta communities was to ensure that granted sufficient candidates were forthcoming there should be at least as many non-Brahmans or Mahratta representatives returned by a constituency as there were seats reserved. The claim advanced by non-Brahmans that should a non-Brahman head the poll in a two-member constituency in which one seat is reserved, the reserved seat should remain reserved for a second non-Brahman and that the latter should be elected to it in preference to a Brahman candidate who was second in the poll, is entirely inconsistent with the Committee's intentions".

The Committee discussed the European and Anglo-Indian representation on the Bengal Council and reduced the number of seats from 21 to 18.

Representation by nomination.

31. In addition to communal representation obtained either by separate communal constituencies or the reservation of seats the draft electoral rules prepared by the Government of India provided

for communal representation by nomination; for instance, in the composition of the Madras Council the provision was made for the nomination by the Governor of 34 members of whom not more than 19 may be officials. The Governor, however, was not left a free-hand in the nomination of the remaining 15 since under the rules—

"11 shall be persons nominated as follows, namely—

(*i*) ten to represent the following communities, namely Paraiyans, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans, Cherumans, and Holeyas, and

(*ii*) one to represent the inhabitants of backward tracts."

In the Assam electoral rules similar provision is made that two of the nominated members shall be non-official persons nominated to represent respectively, (1) the labouring classes and (2) the inhabitants of backward tracts. In the electoral rules of other provinces similar limitations will be found on the discretion of the Governor in the exercise of his right of nomination, but with regard to Madras and Assam only, the Joint Select Committee made an addition enabling (but not requiring) the Governor to make rules in accordance with which the community specified in the rule as to be represented by nomination may select persons from whom the Governor may make his choice. The Joint Select Committee expressed their reasons for this addition in the following terms:—

"A similar provision was made in the Indian Councils Act 1892 which may be said to have initiated the process of election to legislatures in India, and the Committee think that such a provision if the Governor finds it possible to act upon may pave the way for an election proper by educating backward communities in the advantages and responsibilities it involves."

No regulations to that effect have, however, yet been framed either by the Government of Madras or by the Government of Assam.

Chapter VI.

Communal representation in Burma.

The Burma Reforms Committee's Report.

32. The province of Burma was not included in the Reforms scheme until 1921 when a notification No. 225, dated the 7th October 1921, was issued under section 52A of the Government of India Act, constituting Burma a Governor's province. With the issue of that notification a committee of officials and non-officials was appointed to advise as to the rules which should be made in order to apply to Burma the provisions of the Government of India Act relating to Governors' provinces (as modified by the

notifications). The particular modifications which require mention are that the number of members of the Legislative Council of Burma was fixed at 92 and the percentage of elected members at 60 per cent. instead of 70 per cent. This Committee was boycotted by a considerable number of important political associations in Burma but completed its enquiry from the material available. The question of communal representation was considered in chapter 4 of the Committee's report from which the following extract is taken:—

> "The Committee set out on its enquiry in the hope that a general electorate unadulterated by any device for the special representation of minorities might satisfy the needs of Burma. We were, and still are, unanimously of opinion that communal electorates are an undesirable feature in any representative system, but theory in this case, as in India, has had to give way to fact; and, in the face of the evidence presented, we have no course but to recommend certain special measures for minority representation."

The Committee then made the following comments on proportional representation:—

> "In the first instance we made it our endeavour to examine the problem with a view to the application of proportional representation, but the evidence does not justify us in recommending it at present. None the less, we desire to record our opinion that in any further constitutional development, proportional representation will probably offer the most satisfactory manner of securing the representation in question."

In order to secure minority representation the Committee adopted communal representation for the European and Anglo-Indian communities and the reservation of special seats in certain plural member constituencies for the Indian and Karen communities. They proposed two separate electorates for Europeans and Anglo-Indians, because they saw little or no possibility of securing their representation in any other way. The Indian and Karen communities, on the other hand, were more closely linked with the fortunes of the province as a whole and might be expected ultimately to take a normal place in Burmese politics. For that reason the Committee considered it undesirable to segregate them completely from the general electorate. They, therefore, placed them on the ordinary electoral roll, but did not feel justified in depriving them altogether of some guarantee of representation.

Three minutes of dissent.

33. The two Burman members of the Committee expressed themselves very strongly against any form of communal representation or reservation of seats in Burma and expressed their views at length in separate minutes of dissent. The Indian member, Mr. Ginwala, stated that he agreed with the recommendations of the majority as to the reservation of seats though he felt that

the Indian community had put forward and, in his opinion, established an overwhelming case for communal representation pure and simple.

The views of the local Government.

34. The recommendations of the Burma Reforms Committee on the subject of the communal representation of Indians and Karens led to some difference of opinion between the Government of Burma and the Government of India. The views of the Government of Burma were expressed in their letter No. 1035—3L-6, dated the 21st December 1921, and on the vexed subject of communal representation are reproduced in extenso—

> " ...The local Government is opposed to the proposal that the special representation of the Indian and Karen communities should be secured by the reservation of seats in the general constituencies. The reservation of seats is an expedient which has been adopted in Madras to protect the non-Brahmans against the Brahmans whom they out-number by 22 to 1. It was adopted largely because the minority in that case was strongly opposed to a system of communal electorates. But as a means of securing adequate representation for a minority it does not appear to have any advantages over a communal electorate pure and simple. And it has this very great and obvious disadvantage that it places the selection of the representatives of the minority in the hands of the voters belonging to the majority. Reservation of seats will not meet the views of those who have asked for communal electorates, nor does it meet the objections of those who are opposed to the constitution of such electorates. It is clear that the majority of the Committee have proposed it as a compromise, and as a compromise the local Government would have reluctantly agreed to it, had it been accepted by those whose divergent views it was desired to reconcile. But it has failed to achieve that result, and that being so the local Government considers that the only argument in its favour falls to the ground."

The Government of Burma claimed that the arguments in the Montagu-Chelmsford Report were chiefly directed against communal electorates for communities which are differentiated from the rest of the body politic only by religon or by caste; in the case of the Indians and Karens, the difference between them and the Karens is far wider and deeper and includes difference of race and language as well. (The Karens are a highly individualised Sinitic racial group numbering approximately one million out of a total population of about $11\frac{1}{2}$ millions in the particular areas, outside the wholly excluded backward tracts, in which they are distributed). In accordance with the views mentioned above the Government of Burma proposed five urban constituencies in the towns of Rangoon, Mandalay, Moulmein, Bassein and Akyab for the election of seven Indian members; and five rural constituen-

cies in five districts for the election of five Karen members. They agreed to communal electorates for one European and one Anglo-Indian seat.

35. Considerable space was devoted to the subject of communal representation in Burma in the Government of India's despatch No. 2, dated the 31st March 1922, addressed to the Secretary of State. Their comments on Karen representation contained a number of general expressions of opinion on the reservation of seats as a substitute for communal electorates, and as this solution has been suggested for Muslim representation in India those comments are here reproduced in full:— The views of the Government of India.

> "The Committee proposed that the representation of Karens should be secured by the method of reserved seats. In our opinion this method may be a suitable one for securing the representation of a race or class where there is a large majority belonging to the race or class but where there is some doubt whether the majority will, owing perhaps to the less extent of the political activities of its members, be sure of securing adequate representation. These conditions applied in the case of the non-Brahmans and Mahrattas in the Madras and Bombay Presidencies in which the adoption of this expedient was suggested by the Joint Select Committee, but neither of these conditions applies to the Karens in any other constituencies, except one, for which Karens reserved seats have been proposed by the Committee."

The Government of India then gave figures of the Karen population in those constituencies to support their argument that any scheme of reserved seats would, as argued by the local Government, place the selection of the representatives of the Karen minority in the hands of the voters belonging to the remaining races. Though the Government of India agreed that the Karens should have communal seats they revised the distribution suggested by the local Government. They then added—

> "While we accept the proposal to provide for communal representation to this extent we desire to emphasise that this is not communal representation on Indian lines. Generally speaking, the Karens have been merged in the general constituencies, and the Committee and the local Government have steered clear of the great complication of the electoral machinery which would have to be introduced if communal seats on Indian lines had been included wherever Karens are found. The Karen communal seats have been provided only where their numbers justify this and with the object of definitely securing some representation for them, though not, absolutely in proportion to the proportion which they form to the remainder of the population in the whole

province. All the Karen constituencies will be rural constituencies."

The Government of India agreed with the Reforms Committee and with the local Government in rejecting any attempt to establish Indian communal constituencies throughout the province both for rural and urban constituencies, and that the attempt to ensure definite Indian representation should be confined to those urban constituencies where their numbers justified it. They drew attention to the fact that the Committee's proposal was intended to secure not only the representation of Indian but also the representation of Burmans in urban constituencies: for example, in Rangoon the proposal was that 4 seats should be reserved for Burman candidates and three for Indian candidates. In the other four towns of Mandalay, Moulmein, Bassein and Akyab, the Committee definitely distributed all the proposed seats between Burman and Indian candidates. The Government of India decided to support the Committee's proposals in preference to the local Government's advocacy of communal electorates for Indians in those towns, but increased the Indian representation in Mandalay. One member of the Governor General's Council, however, dissented from this view, and considered that the method of reserved seats was as unsuitable for adoption for Indians in urban constituencies in Burma as for Karens in rural constituencies. He was in favour of confining communal representation for Indians to Rangoon, which he would divide into two constituencies each of which would return four members. The Government of Burma were apprised of these recommendations and took strong exception to the Government of India's distribution of Karen representation by divisions instead of districts, and adhered to their view that in certain urban constituencies there should be separate Indian electorates. In their view the reservation of seats for Indians in Rangoon would enable the Indian community completely to control the election of Burmans two seats reserved for Burmans, as Indians would predominate on the electoral roll and were strongly organised. The Government of India then communicated by telegram with the Secretary of State saying that they would accept the decision of the Secretary of State if he preferred communal representation for Indians.

Communal electorates for Indians and for Karens together with separate European and Anglo-Indian constituencies approved by Parliament.

36. The various recommendations which had been made were placed before the Joint Standing Committee on Indian Affairs and in the electoral rules as finally approved by Parliament the recommendations of the Government of Burma for communal electorates for Karens in five districts were approved. The Indians were given communal electorates for eight seats in five urban constituencies; Anglo-Indian and European communal representation remained at one member each. In that respect the views of the local Government were preferred to the recommendation of the Government of India that there should be three seats for the European general constituency. In the debate in the House of Commons, Col. Wedgwood repeated his criticisms of communal representation by separate electorates.

37. Among the appendices attached to this note there are given statements shewing— The contents of five appendices.

Appendix I.—The total population of British India, the Muslim population and its percentage to the total population and the percentage to the Muslim population of Muslims enfranchised for elections to the Provincial Councils.

Appendix II.—The distribution of seats in the Provincial Legislative Councils except Burma, together with figures for each province of the percentage of Muslim seats to the total elected seats compared with the percentage of Muslim seats in the Provincial Councils according to the Lucknow Pact.

Appendix III.—The distribution of seats in the Burma Legislative Council.

Appendix IV.—The distribution of seats in the Legislative Assembly with figures of the percentage of Muslim seats to the total Indian general seats and of the percentage of Muslim seats to the total elected seats.

Appendix V.—The distribution of seats in the Council of State.

Chapter VII.

Communal representation on local bodies.

38. In paragraph 11 of this note an extract was given from the reply of Lord Minto to the Muslim deputation of 1906. After having stated that "any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent", His Excellency proceeded— The Muslim claim in 1906.

> "...The great mass of the people of India have no knowledge of representative institutions. I agree with you, Gentlemen, that the initial rungs in the ladder of self-Government are to be found in the Municipal and District Boards, and that it is in that direction that we must look for the gradual political education of the people. In the meantime I can only say to you that the Muslim community may rest assured that their political rights and interests as a community will be safeguarded in any administrative reorganisation with which I am concerned."

These words, read in the context in which they were used, were commonly interpreted to guarantee the Muslims the communal re-

presentation on local bodies for which they had asked in their address which contained the following passage:—

> "...We would therefore respectively suggest that local authorities should, in every case, be required to declare the number of Hindus and Muslims entitled to seats on Municipal and District Boards, such proportion to be determined in accordance with the numerical strength, social status, local influence and special requirements of either community. Once their relative proportion is authoritatively determined, we would suggest that either community should be allowed severally to return their own representatives, as is the practice in many towns in the Punjab."

Further support to the claim that Lord Minto accepted the principle of communal representation on local bodies was found in the passage in the Government of India's letter No. 2310-17, dated the 24th August 1907, quoted in paragraph 13 of this note, which is here again reproduced in view of the importance which it came to occupy as an expression of official opinion on the subject of communal representation on local bodies.

> "...As the constitution of the provincial legislative councils must largely depend upon the municipalities and district boards, it is suggested that local Governments should introduce into their systems of election and nomination for these boards the principle of assigning a fixed proportion of seats to each of the leading classes into which the population is divided by race, caste or religion, and permitting the members of that class to select its own representative."

It is important to observe that communal representation on local bodies was not suggested for adoption on its own merits, but in order to influence the distribution of representation in the legislative councils, in which provision was being made for special Muslim constituencies to be superimposed upon the general constituencies. As noted above the date of these instructions to local Governments was August 1907.

The recommendations of the Royal Commission upon Decentralization.

39. In September 1907 the Royal Commission upon Decentralization in India was appointed. Its report which was submitted in February 1909 contained important expressions of opinion on minority representation both on rural boards and on municipalities. The Committee's recommendations on the subject of methods of election to rural boards, on which a preponderance of elected non-official members was proposed, will be found in paragraph 789 of the report, from which the following extract is taken:—

> "——Having regard to the very different circumstances of different areas, we think it essential that the system adopted in each should be such as to provide for the due representation of different communities, creeds and interests. It has always been recognised that it is the

duty of the British administration to protect the interests of the various communities in India, and to secure impartial treatment to all. Moreover, in the cognate matter of the selection of members for legislative councils, the discussions which resulted in the passing of the Indian Councils Act of 1892 embodied the emphatic testimony, not merely of distinguished Anglo-Indian officials, but of British statesmen, as to the necessity for securing special representation of Muslim and other minorities, and as to the danger of allowing undue predominance to any one class."

The only Indian member of the Commissison, Mr. R. C. Dutt, recorded a note of dissent against this recommendation and said—

"Separate election by castes and creeds is not known elsewhere in the British Empire, and would introduce a new element of discord and disunion if introduced in India. The British Government, while wisely exercising its power of nomination and appointment to help minorities and backward classes, has generally taught the people of India to ignore distinctions of caste and creed in civic life. A different policy, accentuating existing social and religious distinctions by attaching to them distinct political rights, is likely to breed dissensions and troubles in a country like India."

The remarks of the Decentralization Commission on the mode of election to municipalities were contained in paragraph 850 of their report, in which they said—

"...As regards methods of election, we need only repeat what we have said in the case of sub-district boards, that members should be chosen in ways best suited to local conditions, as laid down in the Government of India Resolution of May 1882. The main object should be to secure an effective representation of the various classes in each town, and the selection of fit representatives . . . A class system of representation, which exists in Rangoon, and in some of the Punjab Municipalities, seems to have worked fairly satisfactorily."

By 1909 therefore local Governments had before them two weighty expressions of opinion in favour of communal representation on local bodies, namely, in the suggestions of the Government of India in their letter No. 2310-17, dated the 24th August 1907, and in the recommendations of the Royal Commission upon Decentralization.

References in Parliament in the debates on the Indian Councils

*40. We may now turn to references to the same subject when the Indian Councils Bill, 1909, was before Parliament. Lord Morley's statement in Parliament on the 23rd February 1909 of his readiness to meet the Muslim demand has already been quoted in paragraph 15 of this note. On the 3rd March the Muslim League

Bill, 1909.

held a meeting in London and addressed a letter to the Secretary of State containing these words—

> "...We construe His Lordship's declaration as also applicable to the elections for district, municipal and rural self-governing bodies, as these elections have invariably been included in the Muslim appeal for adequate and distinct representation."

On the 19th April at the Committee stage Mr. Hobhouse stated in reply to Earl Percy that—

> "...The Secretary of State adheres in its fulness and completeness to what he had said—that the representation of Muslims was to be not merely sufficient, but in excess of their actual numerical right. The difficulty had been how to provide that representation without unduly increasing the number which it was possible to put on these Indian bodies. In a telegram received from the Viceroy as recently as the 12th April speaking of this representation and the methods of securing it to Muslims the Viceroy remarked—The method proposed is simply that in general electorates, such as municipalities, district boards, provincial councils, all sects and classes including Muslims will vote together; by this means some but not sufficient representation will be obtained for Muslims; in addition a certain number of seats will be reserved for Muslims, and no one but Muslims will have a voice in filling them."

On the 27th April Lord Ronaldshay moved an amendment in the following terms to clause 1 of the Bill—

> "——Provided that the ratio of Muslim and Hindu representation on all representative bodies from the rural boards upwards to the Viceregal Council be fixed by executive authority and that in every case in which a seat on a representative body thus assigned to the Muslim community is to be filled by election, the necessary electorate be composed exclusively of Muslims."

Lord Ronaldshay referred to the Viceroy's telegram of the 12th April and said—

> "This appears to me to constitute a direct reversal of the pledge given by the Viceroy and emphasised by the Secretary of State. What the Muslims demanded was, so far as their elected representatives were concerned, an exclusively Muslim electorate for all bodies as they were promised by the Viceroy."

In other words Lord Ronaldshay identified himself with the position of the extreme separatists who favoured complete isolation. Mr. Hobhouse replied—

> "——The Secretary of State wished him to say that he stood by his declaration and did not abate it in any way whatever. The Viceroy said that the Muslim community claimed that in any system of representation

whether affecting legislative councils or municipal or district boards they should be represented as a community, and he expressed his entire accord with that view. There had been no departure from that view nor from the policy declared by his noble friend in another place. But any one acquainted with the Government of India must be perfectly aware that the absolute fulfilment of any undertaking of that kind necessitated a separate register for Muslims. It was necessary that in framing rules and regulations the Government of India should consult the provincial authorities and it was not surprising that the local authorities found in the course of their enquiries that it would be impossible to carry out a uniform system... Wherever elections were found possible, they would be conducted on the basis of separate representation for Muslims."

On the 4th May Lord Morley read a telegram from the Viceroy containing these words—

"I do not understand any Muslim here to claim concessions suggested—namely that wherever elections are found possible they should be conducted on basis of separate representation of Muslim community. If interpreted literally that would involve having separate Muslim electorates within the various electorates proposed such as presidency corporations, district boards and municipalities. This is manifestly impossible."

Shortly after this, resolutions were passed by the London and Indian branches of the Muslim League and letters appeared from various leading Muslim gentlemen re-affirming the claim for separate representation through all stages.

The problem left undecided.

41. It is not necessary to trace in detail the course of the correspondence between the Government of India on the subject of communal representation on local bodies whether with reference to their circular letter No. 2310-17, dated the 24th August 1907, or on the recommendations of the Decentralization Commission. (Broadly speaking the legal position at the time was that under the laws of most provinces the local Government possessed powers to fix the amount of representation to be given to a particular class of the inhabitants in a municipality, but for district boards the power was merely to fix the total number of the members of the board and the number of members of each tehsil in a district.) The whole difficult problem remained undecided, but in a resolution of the 16th July 1908 extending the elective system in the Bombay municipalities the Bombay Government stated—

"——A system of communal representation, though attractive at first sight, is beset by practical difficulties, and is also open to the objection that it may stir up sectional animosities."

It was left therefore for the representation of those classes who were unable to secure representation of their own to be obtained by

nomination. Elsewhere opinion inclined sometimes in opposition to, sometimes in favour of, communal representation in local bodies. The Government of India had deferred passing definite orders, when the outbreak of war in 1914 prevented for the time being any further progress in the settlement of their policy in what was felt to be a very highly controversial matter.

The Government of India's Resolution of the 16th May 1918.

42. In the circumstances we may pass over the intervening years until we come to the Government of India's resolution dated the 16th May 1918 on the local self-government policy of the Government of India. This resolution was linked with the announcement of the policy of His Majesty's Government made in the House of Commons on the 20th August 1917 in respect of the increasing association of Indians in every branch of administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible Government in India as an integral part of the British Empire. The object of the resolution was to indicate the manner in which the Government of India would desire to initiate the progress to be made in the domain of local self-government. In the course of that resolution the Government of India stated that they would prefer that the special representation of minorities on municipal boards and rural boards should be effected by retaining the practice of nomination rather than by introducing some system of communal or proportional representation. In that sentence, therefore, the Government of India made it clear that they did not favour communal electorates for local bodies. With the passing of the Government of India Act, 1919, local self-government became a transferred subject entrusted to the administration of Ministers.

The present provision for the representation of minorities in local bodies.

43. In Appendix VI attached to this note a statement is given shewing the means of representation of minority communities on municipal and rural boards in the different provinces. In Bombay and the United Provinces provision exists for the separate election of Muslims to both municipal and district boards. In Assam such provision is confined to local or district boards, and does not extend to municipalities. In the Punjab the local Government can prescribe the number of representatives of each class in municipalities. In Madras, the Central Provinces, Bihar and Orissa, and Bengal, excluding Calcutta, the representation of minorities is secured by nomination. The Calcutta Municipal Act, 1923, prescribes separate Muslim electorates. In Burma, outside Rangoon, the local Government is empowered to provide where necessary for the representation of classes. In the Rangoon municipality there is a fixed proportion of members of each community and interest.

Communal representation in local bodies accepted by four of the reformed Councils.

44. It is important to observe that the reformed Legislative Councils of four provinces, namely, the United Provinces, Bengal, Bombay and Assam, have expressly accepted the principle of communal representation for local bodies since the Government of India Act was passed.

By the United Provices District Boards Act, 1922, Muslim rate-payers were given a separate electorate with a fair amount of weighting where their percentage is low.

The Calcutta Municipal Act, 1923, was the handiwork of the Minister, the late Sir Surendranath Banerjea. The Bill as drafted did not provide for communal electorates, and this omission aroused considerable feeling among Muslim members. On that ground its introduction on the 22nd November 1921 was opposed by a Muslim member. Twenty Muslims and a member of the depressed classes then voted against the introduction of the Bill to signify their dissatisfaction with the Minister's policy of not adopting communal electorates for the Corporation. On the succeeding motion for the circulation of the Bill which was moved a week later there was no division, as the Minister had indicated that further opportunity would be afforded for considering the subject of communal representation, but the Muslim members made it clear in the course of the debate that they considered that the Hindu members of the Corporation had not treated Muslim interests with proper consideration and voiced the opinion "that it was a pity that in the first year of the Reforms the Muslims had been compelled to feel what Swaraj would be." Again when on the 3rd July 1922 the Bill was referred to Select Committee, the Muslims did not press matters to a division, but accused the Ministers of packing the Committee with members opposed to communal electorates. The Minister then added one more Muslim member. For a variety of reasons communal feeling was intense at the time when the Calcutta Municipal Bill reached its final stage. The Muslims enlisted the sympathies of the non-official Europeans and the Hindus of the depressed classes on the question of communal electorates. A number of Hindu members feared that the definite cleavage which would result if they forced their will on the Muslims would affect the broad political attitude of the Muslim community towards self-Government, and to prevent a climax of that description announced their intention of voting with the Muslims on the question of communal electorates for the Corporation. Government also was not united as the Muslim members insisted either on a free vote being allowed or on Government as a body standing neutral. An estimate of the combined Muslim, non-official European, depressed class Hindu and cautious Hindu vote worked out at a majority over the advanced Hindu vote especially if the Government were not solid. There was thus a certainty of defeat of the Minister, and Sor Surendranath Banerjea accordingly accepted a compromise proposed by a non-official European Member to the effect that for nine years there should be a communal electorate, and thereafter a general electorate.

The Assam Municipal Act, 1923, was altered in Select Committee to make provision for rules to establish communal representation on municipal boards and the Bill was passed with this amendment.

Similarly the provision for communal electorates in the Bombay Municipal Act, 1925, was made as the result of an amendment proposed in Select Committee.

The position in the Punjab.

45. During recent years communal representation on local bodies has been an acutely controversial issue in the Punjab. The following extract on the subject is taken from the most recent report of the local Government on the working of the Reforms addressed to the Government of India with their letter No. 5845, dated the 3rd October 1927:—

"—— The evils of communalism have perhaps been more apparent in the field of local self-government than any other sphere. Before the introduction of the reforms the representation of the Muslim community on local bodies was nothing like that to which it was entitled on purely democratic principles, and it may be conceded that it would have been a task of great difficulty for the first Minister for local self-government, a Muslim, to resist the claim of his co-religionists to a greater share of representation on such bodies. Nor is it possible on the point of principle to take objection to the measures which he initiated in order to achieve his object. These measures included the lowering of the franchise and of qualifications for membership, and the distribution of seats where communal electorates existed, on the basis of the mean between the population and the voting strength of the different communities. It cannot, however, be denied by any close student of the history of the last few years that one result of this policy has been to increase communal feeling. The principles underlying the Minister's policy have naturally been very unpopular with the Hindu community, not only in themselves, but also as embodying a position which Punjab Hindus could not accept in wider spheres without serious consequences to their place in politics . . . . On the other hand the Ministers have on the whole been firm in resisting the considerable pressure brought to bear on them to extend the system of communal electorates to places where it was not previously in force, though in several such places the reconstitution of election wards has operated to produce very much the same results as communal electorates."

CHAPTER VIII.

Post-reforms discussions on Communal Representation.

The Bengal Pact, 1923.

46. The references in this chapter to post-reforms discussions on communal representation exclude discussions in the provincial legislative councils of which some mention is made in the previous chapter, and do not purport to be in any sense exhaustive. In 1923 when the Hindu-Muslim alliance of the non-co-operation

period had fallen to pieces, the late Mr. C. R. Das in Bengal entered into a pact designed to settle Hindu and Muslim differences. *Inter alia*, this pact provided for communal representation in the Bengal Council and in local bodies in the proportion of 60:40 accordingly as either community was in a majority of population, and for the grant of 55 per cent. of Government appointments to Muslims. This Pact was rejected by the Congress. A draft National Pact was prepared but came to nothing.

The House of Lords' Debate of June 1924 on Lord Olivier's letter to Mr. Satyamurti.

47. At this point some mention may be made of the debate in the House of Lords on the 3rd June 1924 on a notice given by Viscount Peel calling attention to a letter written by the Secretary of State, Lord Olivier, to Mr. Satyamurti, a member of the Madras Legislative Council, and particularly to the statement contained in that letter that "the maintenance of the communal system is antagonistic to the possibility of any proper working of democratic institutions in India." In the course of the rather prolonged debate which ensued Lord Olivier explained that though communal electorates had been found necessary, it was in his opinion a political truism that to have a mosaic of communal constituencies, all of which were exacerbating their own differences, was antagonistic to, or in other words, militated against, the progress of democratic institutions. In his contribution to the debate Lord Curzon questioned the right of any one to lay down of a population of 320 millions split asunder by every diversity of race, religion, language and creed that the communal system was inconsistent with the development of democratic institutions. The publication in the press of Lord Olivier's letter to Mr. Satyamurti had caused some alarm among Muslims, and in concluding his remarks Lord Curzon expressed his desire to 'nail the point to the counter that although the Secretary of State had expressed certain abstract views of his own, he had stated with even greater clearness that the Government of which he was a member had no intention of abolishing the communal system.'

The views of the majority and of the minority of the Reforms Enquiry Committee.

48. The Report of the Reforms Enquiry Committee was dated the 3rd December 1924. The problem of communal representation in the Councils was discussed in paragraph 69 of the report of the majority who reached the following broad conclusion—

> "It must be admitted that in principle these provisions are open to constitutional objection, and most of us look upon them as an obstacle to political advance, but we consider that the abolition of any special communal electorates—and in this we include reserved seats—is quite impracticable at the present time. The objections of the communities concerned are, in our opinion, far too deep-rooted to enable us to justify any recommendation in this respect."

The majority then stated that they were not prepared either to recommend even the substitution in whole or in part of reserved seats for separate electorates and added—

> "It is true that it may be urged that this would facilitate the eventual abolition of separate communal representa-

tion. On the other hand, however, it means that the representatives of the communities which attach particular importance to the existing provisions will be elected largely by the suffrages of other communities."

The majority also dealt with a suggestion made by Sir T. B. Sapru that the present system should be replaced by a system under which the existing quota of communal members would be elected from as wide a constituency as possible. It was explained that the object of the recommendation was to improve the quality of members by enlarging the field of choice. The majority stated that in the existing circumstances they considered that this would place too great a strain upon the capacity of the electorate. Before leaving the subject the majority expressed the hope that no further extension of communal representation would be found to be necessary, and observed that before it is permitted any community should be required to prove that it will suffer very appreciably if the existing arrangements continue.

The views of the majority will be found in chapter 8 of their report in which they expressed themselves as follows:—

"While, therefore, we think that in the present conditions it is unavoidable that due regard must be paid to communal interests and that they should be adequately safeguarded by provisions in the Constitution, we do affirm that by the mere postponement of the solution of questions connected with Constitutional advance not only will no useful purpose be served but that it may make the task more difficult in the future."

Apparently the view which the minority were expressing was that in spite of the fact that communal electorates are a hindrance, they did not, in their judgment, supply sufficient ground for postponing further consideration of constitutional progress.

Renewed Muslim anxiety.

49. In its sessions held in 1924, 1925 and 1926 the All-India Muslim League continued to emphasise its adherence to separate representation for Muslims and in moving his resolution on the subject in the All-India Muslim League held in December 1926, Mr. Jinnah said—

"—— There is no escaping from the fact that communalism does exist in the country. By mere time and sentiment it could not be removed. Nationalism could not be created by having a mixed electorate."

Throughout 1926, which was the year of the serious communal riots in Calcutta, a movement against communal electorates, certainly among Hindus, began to gather increased weight. Communal electorates were stated in short to be the root-cause of dissension between the two communities. Fears that Government might yield to the agitation which had been started for the abolition of the system led Muslims to seek an assurance that no change was

contemplated at the time. This assurance was publicly given by His Excellency in a speech at the Chelmsford Club in August 1926 in which, after appealing to the communities to come to terms, he stated that the problem of communal representation was one which would naturally fall within the purview of the Statutory Commission, and Government did not intend to take any steps either to curtail or extend the system in advance of the inquiry which the Commission would make. Shortly after, in replying to an address presented by Muslims at Poona, His Excellency stated—

> "The question of communal representation about which you have expressed anxiety is of great complexity. I have said elsewhere its only justification is that it should be the means through which every community should feel free to give what it can to the common cause of the service of India. But if this ultimate purpose is obscured and if communal representation comes to be regarded as an end in itself, then it has the effect of narrowing the horizon of our loyalty. What was designed to promote the cause of unity may quickly become the seed-bed of division when different communities have to live together. It is incumbent upon each to recognise that the cause of peace demands a wide measure of mutual toleration and restraint. That which we claim for ourselves we must be ready to accord to our neighbours. This spirit, if it may but grow, will be found to be a better and more lasting solvent for the present discords than any artificial methods of representation, but until we can reach this state communal representation in some form is likely to be necessary and it is probable that a substantial modification of it must largely depend upon the general consent of all communities."

Lord Birkenhead's comments in the House of Lords in July 1926.

50. The subject of communal representation had been referred to by the Secretary of State in a speech delivered in the House of Lords on the 28th July 1926. In that speech Lord Birkenhead expressed the opinion that it was not true to deny all connection between reforms and the present Hindu-Muslim tension but it was a grossly inadequate explanation to attribute it either to the existence of reforms or to their nature. As far as tangible cause of tension could be assigned, it was to be found in the general post-war unsettlement which gave a final quietus to the system of paternal government and allowed component elements of the Indian population to take stock of their new position and insist increasingly and vehemently on their own rights. It was doubtless true, said Lord Birkenhead, that the system of communal representation tends to stereotype cleavage, but there is not the slightest ground for an assertion that, had Parliament insisted in the teeth of violent opposition in carrying reforms in 1919, which embodied such representation, Hindu-Muslim relations would have become more amicable than lately they have been. On the other hand

it was almost certain that they would have become very much more violent and embittered.

The Council of State debate of 10th March 1927.

51. On the 10th of March 1927, the Hon'ble Sir Sankaran Nair, formerly member of the Governor General's Executive Council, moved a resolution in the Council of State to the effect that no further step should be taken towards responsible Government until the Hindus and Muslims agreed to dispense with the election of members on the legislatures by separate electorates composed only of Hindus or Muslims. The resolution appeared to arise primarily from the statement by the All-India Muslim League of their idea of what should be the basic and fundamental principles on which any new constitution should be based. Included among those principles was a provision that the representation of communal groups should continue to be by means of separate electorates as at present, provided that it shall be open to any community to abandon a separate for a general electorate. An amendment was moved by a Muslim member to provide for the retention of separate electorates, and a further amendment to permit constitutional advance with joint electorates and protection for minorities. After discussion the amendments were negatived and the original resolution was withdrawn. The resolution served the purpose of ventilating the views of various sections on the subject of communal representation.

The Delhi proposals of March 1927.

52. During the course of that debate no Muslim member had expressed the view that the time had yet come when communal electorates could be dispensed with. In the circumstances there was some surprise when a statement was issued to the press a few days later by a number of Muslim members of the legislature to the effect that at an informal conference which they had held among themselves they had agreed to the institution of joint electorates, on the condition that Sind should be separated from the Bombay Presidency and made a separate province, and, secondly, that reforms should be introduced in the North-West Frontier Province and Baluchistan on the same terms as in any other province of India. If these conditions were accepted by the Hindu-Muslim communities Muslims would accept joint electorates in all provinces, and would make to the Hindu minorities in the provinces where Hindus were in a minority the same concessions that the Hindus were prepared to make to Muslim minorities elsewhere. In the Punjab and Bengal representation should be on the basis of population and in the Indian legislature Muslims should be represented by not less than one-third of the members chosen by mixed electorates. Immediately after the statement containing these conditions had been communicated to the press some of those who had been present at the conference wrote to the newspapers denying that they had agreed to the conditions and saying that they could not accept joint electorates on any terms. Mr. Jinnah who had taken a leading part in convening the conference himself issued a further statement to the press in which he said that the Muslims proposals must be accepted or rejected *in toto*;

while about three weeks later the representative in the Assembly of the North-West Frontier Province gave a statement to the press in which he said that if Muslims desired to preserve their identity, they should not allow themselves to be merged politically in the Hindu majority. He concluded by saying that a joint electorate in the existing circumstances would be an unequal combination disadvantageous to the weaker side. From comments made in the Muslim press throughout India it seemed clear that whatever the reception the Hindus might give to the conditions suggested at the conference of Muslim leaders, there was little chance of their finding favour with Muslims generally.

The Hindu reply.

53. Three days after the Muslim conference, the Hindu members of the Indian legislature met in Delhi to consider the Muslim proposals. At this meeting the following principles were generally accepted as the basis of further discussion:—

(1) There should be joint electorates for all the legislatures throughout India.

(2) Everywhere seats should be reserved on the basis of population.

(3) Religious and quasi-religious rights should be safeguarded by specific provisions in the constitution.

(4) Problems involving the rearrangement of provincial boundaries should be left alone for the time being.

At a meeting of the Hindu Maha Sabha a few days later it was decided that the suggestions of the Muslim conference were not yet ripe for discussion.

Recent resolutions passed by political organisations.

54. The question of joint *versus* separate electorates has continued to be a much debated issue in current politics, the course of which is indicated in the resolutions attached to the further appendices to this note, namely—

Appendix VII.—Resolutions (1) and (2) of the All-India Congress Committee passed at Bombay in May 1927 in favour of substituting joint for separate electorates, with reservation of seats as a temporary measure and if desired. Provision was also made for reciprocal concessions in favour of minorities including Sikhs in the Punjab. These two resolutions form part of the general body of five resolutions on the subject of Hindu-Muslim unity all of which are reproduced in this appendix.

Appendix VIII.—The Hindu-Muslim Unity Resolution passed by the Madras Congress of December 1927 reproduced in this appendix was based on the resolutions of the All-India Congress Committee passed at Bombay in May 1927.

Appendix IX.—Resolution passed by the Calcutta Session of the All-India Muslim League. In the course of this resolution it is stated that " in present circumstances the representation of Muslims in the legislatures by separate electorates is inevitable, and Muslims will not accept any scheme involving the surrender of this valuable right unless and until Sind is actually constituted a separate autonomous province and reforms are actually introduced in the North-West Frontier Province and Baluchistan. When these requirements are fully satisfied Muslims will be prepared to abandon a separate in favour of a joint electorate with reservation of seats fixed on the basis of the population of the different communities " subject to certain stipulations contained in the resolution.

Appendix X.—Resolution of the Lahore Session of the All-India Muslim League containing the statement that ' the idea of joint electorates with or without a specified number of seats being unacceptable to Indian Muslims on the ground of its being a fruitful source of discord and disunion and also as being wholly inadequate to achieve the object of the effective representation of various communal groups, the representation of Indian Muslims shall continue to be by means of separate electorates as at present, provided that it shall be open to any community at any time to abandon its separate electorates in favour of joint electorates '. Attention is also drawn to the provisions in the resolution on the subject of the proportion of Muslim representatives.

The Calcutta and Lahore Sessions of the All-India Muslim League were rival meetings of the same body owing to differences of opinion between the leaders.

Appendix XI.—Resolution of the All-India Liberal Federation including provision affirming that ' national patriotism can be best developed by a system of joint electorates qualified by the reservation of seats for important minorities until it be possible with the goodwill of the communities concerned to dispense with reservation of seats '.

Appendix XII.—Resolution passed by the Delhi Session of the All-India Hindu Maha Sabha on February 8th, 1928, declaring that communal representation is fundamentally opposed to nationalism.

Appendix XIII.—Resolutions passed by the All-Parties' Conference at Delhi in February and March 1928.

APPENDIX I.

Census and electorate statistics of the Muslim Community.

Province.	Population of British India (in thousands).	Population of Muslims in British India (in thousands).	Percentage of Muslim population to total population.	Percentage of Muslim electorate for provincial councils to Muslim population in provincial councils.
British India	246,960	68,735	27	..
Madras	42,318	2,840	6·7	2·4
Bombay	19,291*	3,820	19·7	3·57
Bengal	46,695	25,210	53·9	2·1
United Provinces	45,375	6,481	14·3	3·58
Punjab	20,685	11,444	55·3	2·67
Bihar and Orissa	34,002	3,690	10·9	1·1
Central Provinces	13,912	563	4	2·52
Assam	7,606	2,202	28·9	3·4
Burma	13,212	..	..	..
Delhi	488	..	..	..
Ajmer-Merwara	495	..	..	..
North-West Frontier Province	2,251	2,062	91·6	..

*Excludes Aden.

APPENDIX II.

Distribution of seats in Provincial Councils (except Burma).

Province.	Total (*ex-officio*, nominated and elected).	Total (elected).	By special electorates.				By general electorate.										Percentage of Muslim seats to total elected seats.	Percentage of Muslim seats in Provincial Councils according to the Lucknow Pact.
			Total.	University.	Land holders.	Commerce and Industry including mining and planting.	Rural.	Urban.					Rural.	Urban				
							Muslims.	Muslims.	Europeans.	Anglo-Indians.	Indian Christians.	Sikhs.	Non-Muhammadans.	Non-Muhammadans	Total.			
1. Madras	132	98	13	1	6	6	11	2	1	1	5	..	56	9	85		13·2	15
2. Bombay.	114	86	11	1	3	7	22	5	2	..	..	.	35	11	75		31·3	33
3. Bengal	140	114	22	2	5	15	33	6	5	2	..	..	35	11	92		34·2	40
4. United Provinces.	123	100	10	1	6	3	25	4	1	..	..	..	52	8	90		29	30
5. Punjab	94	71	7	1	4	2	27	5	..	..	..	12	13	7	64		45·07	50
6. Bihar and Orissa.	103	76	9	1	5	3	15	3	1	..	..	..	42	6	67		23·6	25
7. Central Provinces.	73	55*	7	1	3	3	6	1	..	..	..	..	32	9	48		12·7	15
8. Assam	53	39	6	.	..	6	12	..	..	..	..	..	20	1	33		30·7	..

* Includes Berar Members.

APPENDIX III.

Distribution of seats in the Burma Legislative Council.

Province.	Total (ex-officio nominated and elected).	Total (elected).	By special electorates.			By general electorates.						
			University.	Commerce.	Total.	General Rural.	General Urban.	Indian Urban.	Karen Rural.	Anglo-Indian.	European.	Total.
Burma	103	79	1	5	6	44	14	8	5	1	1	73

APPENDIX IV.

Distribution of seats in the Legislative Assembly.

Province	Total (ex-officio nominated and elected).	Non-Muhammadan General seats including for Punjab.	Muslim general seats.	Percentage of Muslim seats to total Indian General seats.	Other general elected seats.		Special elected seats.		Total elected.	Percentage of Muslim seats to total elected seats.	
					European.	General.	Indian Commerce.	Land-holder.			
Madras . . .	18	10	3	23	1	...	1	1	16	18·8	
Bombay . . .	20	7	4	36·4	2	...	2	1	16	25	
Bengal . .	21	6	6	50	3	...	1	1	17	35·3	
United Provinces .	18	8	6	42·9	1	...	...	1	16	37·5	
Punjab . . .	15	5		54·5	...	...	...	1	12	50	
Bihar and Orissa .	14	8	3	27·3	...	...	...	1	12	25	
Central Provinces .	6	3*	1	25	...	...	...	1	5	20	* Excluding one non-Muhammadan Berar.
Assam . . .	5	2	1	33·3	1	...	...	...	4	25	
Burma . . .	5	...	...	...	1	3	...	...	4	...	
Delhi .	1	...	...	...	...	1	...	...	1	...	
Ajmer-Merwara .	1	...	...	...	...	1	...	...	1	...	
North-West Frontier Provinces.	1	...	...	...	...	...	...	...	...	...	
Berar . .	1	...	...	...	...	...	...	...	...	...	
Government of India	14	...	...	...	...	...	...	...	...	...	
Associated Chamber of Commerce.	1	...	...	...	...	...	...	...	...	...	
Indian Christian .	1	...	...	...	...	...	...	...	...	...	
Depressed Classes .	1	...	...	...	...	...	...	...	...	...	
Anglo-Indian Community.	1	...	...	...	...	...	...	...	...	...	
Labour Interests .	1	...	...	...	...	...	...	...	...	...	
Total .	145	49	30	37·9	9	5	4	7	104	28·8	

Appendix V.

Distribution of seats in the Council of State.

Province.	Total (ex-officio nominated and elected).	General seats.	Muslim seats.	Sikh seats.	European Commerce.	Total (elected).
Madras	7	4	1	..	..	5
Bombay	8	3	2	..	1	6
Bengal	8	3	2	..	1	6
United Provinces	7	3	2	..	..	5
Punjab	7½	1	1½	1	..	3½
Burma	2	1	..	..	1	2
Bihar and Orissa	4½	2½	1	..	..	3½
Central Provinces	2	1	..	..	..	1
Assam	1	½	½	..	..	1
North-West Frontier Province	1	..	..	..	..	..
Berar	1	..	..	..	..	..
Government of India	10	..	..	..	..	..
Total	59	19	10	1	3	33

Appendix VI.

A statement showing the means of representation of minority communities on municipal and rural boards in different provinces.

Madras City	Representation of Muslims and other minorities is secured by nomination.	Section 5 (*f*) of Madras City Municipal Act, 1919, as amended up to date.
Madras district municipalities.	Ditto	Ditto. Section 7 (3) of Madras District Municipalities Act, 1920, as amended up to date.
Madras local boards	Ditto	Ditto. Section 9 (5) of Madras Local Boards Act, 1920, as amended up to date.
Bombay City	There are no separate special constituencies for representation of Muslims and other minority communities. Inequalities of representation are corrected by nomination.	....

A statement showing means of representation of minority communities on municipal and rural boards in different provinces—contd.

Bombay district municipalities.	Governor-in-Council prescribes by rules the number to be elected by sections of inhabitants. Model rules provide for separate election by Muslim and non-Muslim wards.	Section 11 (*c*) (*ii*) of Bombay District Municipalities Act, 1901, as amended up to date.
Bombay City municipalities (major towns).	Government has power to make rules prescribing the number of wards to be constituted for Muslims, non-Muslims and depressed classes in each Municipal borough and the number of councillors to be elected by each.	Section 10 (1) (*e*) of Bombay City Municipalities Act, 1925.
Bombay local boards .	Government has power to secure by nomination representation of depressed classes if and where necessary. Rules provide for separate election by general and Muslim constituencies.	Section 5 (4) of Bombay Local Boards Act, 1923, as amended up to date.
Calcutta . . .	The local Government is competent to appoint councillors to secure representation of minorities including backward and labouring classes. The law also provides for separate representation of Muslims by election.	Section 5 (*b*) (*ii*) of Calcutta Municipal Act, 1923, as amended up to date and Schedules III and IV.
Bengal district municipalities. Bengal local and district boards.	Representation of Muslims and other special communities on local bodies is secured by nomination.	....
United Provinces municipalities.	The local Government makes provision by rule for the special representation of classes of the community such as Muslims and non-Muslims.	Section 11 (1) (*b*) of United Provinces Municipalities Act, 1916, as amended up to date.
United Provinces district boards.	Proportion of elected members to be elected by Muslim electorates is laid down by law.	Sections 4 and 5 of United Provinces District Boards Act, 1922.
Punjab municipalities .	The local Government has power to prescribe by rule the number of representatives of each ward or class.	Sections 12 (and 240 (1) (*c*) of Punjab Municipalities Act, 1911, as amended up to date.
Punjab district boards .	The mode of appointment or election of members is determined by rules made by the local Government.	Sections 11 and 55 (1) (*d*) of the Punjab District Boards Act, 1884, as modified.
Rangoon municipality .	There is a fixed proportion of members of each community and interests.	Section 7 and Schedule I, Chapter I, Rangoon Municipal Act, 1922, as amended up to date.
Burma municipalities .	The local Government has power to determine the number of members and manner of their election so as to provide, among other things, for the representation of classes of inhabitants.	Sections 7 and 8 of Burma Municipal Act, 1898, as amended up to date.

A statement showing means of representation of minority communities on municipal and rural boards in different provinces—concld.

Burma District councils and circle boards.	There is no specific provision in law for the representation of Muslims and other communities, but rules provide for separate representation of different communities. It is possible for such classes to be represented by nomination.	Section 7 of Burma Rural Self-Government Act, 1921, as amended up to date.
Bihar and Orissa municipalities.	Representation of minorities and special interests is secured by appointments made by local Government as far as possible.	Section 13 (1) (*b*) of Bihar and Orissa Municipal Act, 1922, as amended up to date.
Bihar and Orissa district boards.		Section 8 (2) (*a*) of Bihar and Orissa Local Self-Government Act, 1923, as amended up to date.
Central Provinces municipalities.	Local Government has power to make rules regulating the mode of election, selection and nomination of members But there are no separate electorates or reservation of seats for Muslims or minority communities on municipalities or rural boards. Deficiency in the representation of minorities is made up by nomination.	Section 10 (4) of Central Provinces Municipalities Act, 1922, as amended up to date.
Central Provinces district councils and local boards.		Section 79 (1) (iii) of Central Provinces Local Self-Government Act, 1920, as amended up to date.
Assam municipalities .	Elected members are elected by joint electorate of all communities. Government may correct inequalities by nomination.	Section 296 (2) (1) of Assam Municipal Act, 1923, as amended up to date
Assam local boards .	Muslims and non-Muslims form separate electorates. Rules require that claims of castes, communities and interests not adequately represented by elected members should be taken into consideration in appointing nominated members.	Section 4 (2) of Assam Local Self-Government Act, 1915, as amended up to date.

APPENDIX VII.

Resolutions passed by the All-India Congress Committee at Bombay in May 1927.

"The All-India Congress Committee approves and adopts the report of the Working Committee on the Hindu-Muslim question and the recommendations contained therein and calls upon all Congress organisations to take necessary steps to have the following recommendations carried out:—

(1) *Joint Electorates.*—That in any future scheme of constitution, so far as representation in the various legislatures is concerned, joint electorates in all the provinces and in the Central Legislature be constituted.

(2) *Reservation of seats.*—That, with a view to give full assurances to the two great communities that their legitimate interests will be safeguarded in the Legislatures, for the present, and if desired, such representation of the communities should be secured by the reservation of seats in joint electorates on the basis of population in every province and in the Central Legislature:

Provided that reciprocal concessions in favour of minorities including the Sikhs in the Punjab may be made by mutual agreement so as to give them representation in excess of the proportion of the number of seats to which they would be entitled on the population basis in any province or provinces, and the proportions so agreed upon for the provinces shall be maintained in the representation of the two communities in the Central Legislature from the provinces.

(3) (*a*) *North-West Frontier Province and British Baluchistan.*—That the proposal made by the Muslim leaders that reforms should be introduced in the North-West Frontier Province and British Baluchistan on the same footing as in other provinces is, in the opinion of the Committee, a fair and reasonable one, and should be given effect to, care being taken that simultaneously with other measures of administrative reform an adequate system of judicial administration shall be introduced in the said provinces.

(3) (*b*) *Separation of Sind from Bombay.*—(*i*) That with regard to the proposal that Sind should be constituted into a separate province, this Committee is of opinion that the time has come for the redistribution of provinces on linguistic basis—a principle that has been adopted by the constitution of the Congress.

(*ii*) The Committee is also of opinion that such readjustment of provinces be immediately taken in hand and that any province which demands such reconstitution on linguistic basis be dealt with accordingly.

(*iii*) The Committee is further of opinion that a beginning may be made by constituting Andhra, Sind and Karnatak into separate provinces.

(4) *Liberty of conscience.*—That in the future constitution, liberty of conscience shall be guaranteed and no legislature, central or provincial, shall have power to make any laws interfering with liberty of conscience.

"Liberty of Conscience" means liberty of belief and worship, freedom of religious observances and association and freedom to carry on religious education and propaganda with due regard to the feeling of others and without interfering with similar rights of others.

(5) *Inter-communal matters.*—That no bill, resolution, motion or amendment regarding inter-communal matters shall be moved, discussed or passed in any legislature, central or provincial, if a three-fourths majority of the members of either community affected thereby in that legislature oppose the introduction, discussion or passing of such bill, resolution, motion or amendment.

" Inter-communal matters " means matters agreed upon as such by a Joint Standing Committee of both communities, of the Hindu and Muslim members of the legislatures concerned, appointed at the commencement of every session of the legislatures."

Appendix VIII.

The Unity Resolution of the Madras Session of the Indian National Congress, December 1927.

" This Congress resolves that in any future scheme of constitution, so far as representation in various legislatures is concerned, joint electorates in all Provinces and in the Central Legislature be constituted.

That with a view to give full assurances to the two great communities that their legitimate interests will be safeguarded in the Legislatures for the present and, if desired, such representation of communities should be secured by reservation of seats in joint electorates on the basis of population in every province and in the Central Legislature provided that reciprocal concessions in favour of minorities in the Punjab may be made by mutual agreement so as to give them representation in excess of the proportion of the number of seats to which they would be entitled on population basis in any province or provinces and the proportions for the provinces in the Central Legislature from province. In decision of reservation of seats for the Punjab the question of representation of Sikhs as an important minority will be given full consideration. The proposal made by Muslim leaders that reforms should be introduced in North-West Frontier Province and British Baluchistan on the same footing as in other provinces is, in the opinion of the Congress, fair and reasonable and should be given effect to, care being taken that simultaneously with other measures of administrative reform an adequate system of judicial administration shall be introduced in the said provinces.

That with regard to the proposal that Sind should be constituted into a separate province this Congress is of opinion that the time has come for redistribution of provinces on linguistic basis, a principle that has been adopted by the constitution of the Congress.

This Congress is also of opinion that such re-adjustment of provinces be immediately taken in hand and that any province which demands such reconstitution on linguistic basis be dealt with accordingly.

This Congress is further of opinion that beginning may be made by constituting Andhra, Utkal, Sind and Karnatak into separate provinces. That in the future constitution " liberty of conscience " shall be guaranteed and no Legislatures, Central or Provincial, shall have power to make any laws interfering with the " liberty of conscience ". " Liberty of Conscience " means liberty of belief

and worship, freedom of religious observances and association and freedom to carry on religious education and propaganda with due regard to the feelings of others and without interfering with the similar rights of others. That no bill, resolution, motion or amendment regarding inter-communal matters shall be moved, discussed or passed in any legislatures, Central or Provincial, if three-fourths majority of the members of either community affected thereby in that Legislature oppose the introduction, discussion or passing of such a Bill, resolution, motion or amendment. "Inter-communal matters" mean matters agreed upon as such by a joint standing committee of both communities of Hindu and Muslim members of the Legislatures concerned appointed at the commencement of every session of Legislature.

This Congress resolves that without prejudice to rights that Hindus and Muslims claim one to play music and conduct processions wherever they please, and the other to slaughter cows for sacrifice or food wherever they please, the Muslims appeal to the Muslims to spare Hindu feelings as much as possible in the matter of the cow, and the Hindus appeal to the Hindus to spare Muslim feelings as much as possible in the matter of music before mosques, and therefore this Congress calls upon both the Hindus and Muslims not to have recourse to violence or to law to prevent the slaughter of a cow or the playing of music before a mosque.

The Congress further resolves that every individual or group is at liberty to convert or to reconvert another by argument or persuasion but no individual or group shall attempt to do so or prevent it being done by force, fraud or other unfair means such as the offering of material inducement. Persons under 18 years of age should not be converted unless it be along with their parents or guardians. If any person under 18 years of age is found stranded without his parents or guardians by persons of another faith he should be promptly handed over to persons of his own faith. There must be no secrecy as to the person, place, time and manner about any conversion or reconversion nor should there be any demonstration of jubilation in support of any conversion or reconversion. Whenever any complaint is made in respect of any conversion or reconversion that it was effected in secrecy or by force, fraud or other unfair means or whenever any person under 18 years of age is converted the matter shall be enquired into and decided by arbitrators, who shall be appointed by the Working Committee either by name or under general regulations."

Appendix IX.

Resolution passed by the Calcutta Session of the All-India Muslim League, December 1927.

"The All-India Muslim League authorizes the Council of the League to appoint a Sub-Committee to confer with the Working

Committee of the Indian National Congress and such other organisations as the Council may think proper for the purpose of drafting a constitution for India in which interests of the Muslim community will be safeguarded, having regard to the following proposals which the league approves of and adopts and subsequently take part in the national convention which is going to take place in Delhi March next, as suggested by the Indian National Congress.

(1) That Sind should be separated from the Bombay Presidency and constituted into a separate autonomous province.

(2) That Reforms should be introduced in the North-West Frontier and Baluchistan placing them on the same footing as other provinces.

(3) That in the present circumstances the representation of Muslims in different legislatures of the country through separate electorates is inevitable and that Muslims will not accept any scheme involving the surrender of this valuable right, unless and until Sind is actually constituted a separate autonomous province, and reforms as aforesaid are actually introduced in the North-West Frontier and Baluchistan provinces. When these requirements are fully satisfied, Muslims will be prepared to abandon separate electorates in favour of joint electorates with reservation of seats, fixed on the basis of population of different communities, subject to what is stated hereinafter, (1) Sind, North-West Frontier and Baluchistan; Muslim majority make the same concessions with regard to the proportion of seats reserved to the Hindu minority that the Hindu majority in other provinces would make to the Muslim minorities over and above the proportion of the population of the provinces which shall be the minimum basis; (2) in Central Legislature Muslim representation shall not be less than one-third."

Appendix X.

Resolution passed by the Lahore Session of the All-India Muslim League, December 1927.

"1. Whereas the speedy attainment of Swaraj is one of the declared objects of the All-India Muslim League, and whereas it is now generally felt that the conception of Swaraj should be translated into the realm of concrete politics and become a factor in the daily life of the Indian people, the All-India Muslim League hereby resolves, that in any scheme of a constitution for India, that may ultimately be agreed upon and accepted by the people, the following shall constitute its basis and fundamental principles:—

(*a*) The Provinces of India shall all be united under a common Government on a federal basis following the model of the United States of America, so that each Province shall have full and complete autonomy, the functions of the Central Government being confined to such matters of general and common concern as may be expressly mentioned in the constitution.

(*b*) Any territorial re-distribution that might at any time become necessary shall not in any way affect the Muslim majority of population in the Punjab, Bengal, North-West Frontier Province, Baluchistan and Sind.

(*c*) Full religious liberty, *i.e.*, liberty of belief, worship, observances, propaganda, association and education shall be guaranteed to all communities.

(*d*) The idea of joint electorates whether with or without a specified number of seats, being unacceptable to Indian Muslims, on the ground of its being wholly inadequate to achieve the object of effective representation of various communal groups, the representation of the Indian Muhammadans shall continue to be by means of separate electorates as at present, provided that it shall be open to any community at any time to abandon its separate electorates in favour of joint electorates.

(*e*) That the representation on the various legislative Councils in the country shall be so arranged as to ensure that no majority in any Province shall be converted in the Legislative Councils into either a minority or equality.

(*f*) The constitution of the Executive in the Central and Provincial Governments shall be so devised as to provide adequate representation of the Muslim Community in the various Indian Cabinets. The amount of representation in the Central Legislature shall be at least 33 per cent.

(*g*) No bill or resolution or any part thereof affecting any community, which question is to be determined by the Community in the elected body concerned, shall be passed in any Legislature or any other elected body if three-fourths of the members of that Community in that particular body oppose such bill or resolutions or part thereof."

Appendix XI.

Resolution passed by the Indian Liberal Federation at Bombay in December 1927.

"(*a*) This Federation places on record its deep conviction that for the early attainment by India of responsible government, it is of paramount importance that the unfortunate communal differences should be composed. It calls upon all its members to promote and actively support every movement calculated to bring about a better understanding between Hindus and Muslims and unity in political matters by just representation for minorities in the legislature.

(*b*) This Federation cordially appreciates the earnestness of distinguished Muslim leaders who have put forward a scheme for the settlement of outstanding differences.

(*c*) It affirms that national patriotism can best be developed by a system of joint electorates qualified by the reservation of seats for important minorities until it be possible with the goodwill of the communities concerned to dispense with reservation of seats."

Appendix XII.

Resolution passed by the Delhi Session of the All-India Hindu Mahasabha on February the 8th, 1928.

The All-India Hindu Sabha met at Delhi and passed a resolution stating that after considering (*a*) the Delhi Muslim proposals, (*b*) the resolution adopted in respect thereof by the Madras Session of the Indian National Congress and (*c*) the resolution passed immediately after the close of the Madras Congress by the Calcutta session of the Muslim League—

"this meeting of the All-India Hindu Sabha reiterates its conviction that communal representation is fundamentally opposed to Nationalism and lays down the following essential propositions for incorporation in any future constitution of the country:—

(*a*) That there shall be uniformity of franchise for all communities in each Province.

(*b*) That elections to all the elective bodies shall be by mixed Electorates.

(*c*) That there shall be no reservation of seats on communal considerations in any of the Elective Bodies and Educational Institutions, but to start with if a minority community in any Province were to demand a reservation of seats, such reservation may be granted only in the Legislatures for a short period and on the basis mentioned in Clause (*d*). In no circumstances, however, shall there be any reservation of seats in favour of any majority community.

(*d*) The basis of representation of different communities shall be uniform, such as adult population, voting strength or taxation.

(*e*) The redistribution of Provinces in India, if and when necessary shall be made on their merits in light of principles capable of a general application with due regard to administrative, financial and similar other considerations, but no new Provinces shall be created with the object of giving a majority therein to any particular community. In the case of Provinces like the North-West Frontier Province and Baluchistan and scheduled district steps should at once be taken to secure with as little delay as possible the benefits of a regular system of administration, both judicial and executive, so as to leave no ground for refusing them the full benefits of the future reformed constitution of the Government of India.

(*f*) There shall be no communal representation in the Public Services which must be open to all communities on the basis of merit and competency ascertained through open competitive tests."

APPENDIX XIII.

Resolutions passed by the All-Parties' Conference at Delhi in February and March 1928.

(*a*) Resolution passed on the 21st February 1928.

At a meeting of the All-Party Conference held on the 21st February 1928, the following resolution was recorded:—

"Representatives of all organisations present, *i.e.*, the Indian National Congress, the Muslim League, the Liberal Federation, the South Indian Liberal Federation of Madras, the Landholders' Association, the Sikh League, the Central Khilafat Committee, the Indian States Peoples' Conference, the National Home Rule League, the Bombay Swaraj Sabha, the Trade Union Congress, the Republic League, and the Hindu Mahasabha, agree that—

(1) Under the new Constitution for India to be drawn by a Committee to be appointed by this Conference, representation in all legislatures, Central and Provincial, shall be by joint electorates, subject for the present to reservation of seats on the population basis in the Central Legislatures or in any province in which such reservation is asked for. (Note:—Representatives of the Hindu Mahasabha desire it to be recorded that they do not agree that seats should be reserved for majorities in any province.)

(2) This Conference is of opinion that simultaneously with the inauguration of the new constitution, redistribution of provinces such as Andhra, Utkal, Sind, Karnatak, Central Provinces (Hindi) and any other area demanding separation on a linguistic basis may be undertaken provided (*a*) that the separate province shall be financially self-supporting, (*b*) that on the scheme of separation being laid before the people of the area concerned with its financial aspects, the majority of the inhabitants favour the scheme and express their readiness to bear the financial responsibility of the new arrangement, (*c*) that the North-West Frontier Province, Baluchistan, Delhi, Ajmere-Merwara, Coorg and scheduled Districts and any province which may be separated from any existing province shall be placed on the same footing in respect of its form of Government and its executive and judicial administration as any other province. (Note:—Mr. Kelkar and Mr. Chablani are opposed to the question of redistribution of provinces being mixed up with the question of electorates. Mr. Jinnah and other Muslim members of the League who were present, it is said, explained that they were present only in their individual capacity. As the league had not formally elected them delegates to the All-Party Conference, they could not therefore commit the League to clauses relating to financial self-sufficiency and reference of separation to the population unless the League had considered them. But they hoped to be able to persuade the League to accept them.)

(3) This Conference resolves that so long as the system of Government in the North-West Frontier Province and Baluchistan is

not placed on the same footing as in other provinces, and Sind is not separated from the Bombay Presidency in spite of the readiness of the majority of the people to bear the financial responsibilities involved in the separation, the system of separate electorates shall remain in force.

(4) Reciprocal concessions in favour of minorities may be made by mutual agreement, so, as to give them representation in excess of the proportion of the population in the number of seats to which they would be entitled on the population basis in any province, and that the proportion so agreed upon for the provinces shall be maintained in the representation of the two communities in the Central Legislature from the provinces. (Note:—Representatives of the Hindu Mahasabha do not agree to the last two propositions in the decision of the reservation of seats for the Punjab. The question of representation of Sikhs as an important minority will be given careful consideration.)

(5) Resolved further that the Conference do proceed with its work on the basis of agreement so arrived at.

(*b*) Extract of clauses (3) and (4) of a resolution passed on the 11th March 1928, by the All-Parties' Conference at Delhi.

* * * * *

(3) The question discussed at some length was the reservation of seats for majorities. It was found that while the Hindu Sabha and the Sikh League were strongly opposed to any such reservation, the Muslim League equally strongly supported it. The resolution of the Congress—Part A(2), is open to the construction that reservation of seats may be claimed by minorities as well as majorities. This Conference is of the opinion that it is possible to provide for the safeguards contemplated by the resolution of the Congress and the Muslim League by devising a system of election on the principle of proportional representation by the single transferable vote or some similar method.

This Conference resolves that a Committee consisting of the following members be appointed to investigate the whole matter, and make its report to this Conference at an early date. Meanwhile, the representatives of the parties concerned are requested to lay the matter before their respective organisations, and obtain full powers to deal finally with the matter at the next meeting of the Conference.

The names of the members are Mr. S. Srinavasa Iyengar, (Chairman), Mr. Shunmukham Chetti, Sardar Mangal Singh, Mr. Rafi Ahmad Kidwai, Maulana Mahomed Ali, (representatives of the Muslim League dissenting).

(4) Consideration of joint and separate electorates and the proportion of members in the Central Legislatures and the protection of minorities and like matters do stand adjourned till the receipt of the reports of these committees.

* * * * *

THE PRESENT REPRESENTATION OF COMMERCE, INDUSTRY, LABOUR, EDUCATION AND OTHER INTERESTS IN THE PROVINCIAL AND CENTRAL LEGISLATURES.

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The present representation of Commerce, Industry, Labour, Education and other interests in the Provincial and Central Legislatures.

Scope of the Memorandum.

1. The intention of this note is to show the extent to which special representation has been introduced into the present constitution, the allegations of its inadequacy which have been addressed to the Government of India and some arguments in favour of and against the present system. The Government of India have

not yet received the memoranda to be prepared by local Governments, and are therefore not in a position to deal so fully with representation in local legislatures as with the position in the Central Legislature.

Special representation by election or nomination.

2. Special representation, naturally enough, was a feature in earlier constitutions. The object of all representation then was to enlarge the field of public discussion in order that the various administrations might be able to shape their course with the advantage of a distinct knowledge of the wishes and feelings of the communities with whose interests they might be required to deal. Special electorates first appeared in the legislatures, Imperial and Provincial, set up in 1909, and were both territorial and associational. During the incubation of the present constitution the authors of the report on Indian constitutional reforms recognized the necessity for some special representation, but, at least in provinces, they deprecated the introduction of special electorates where that course could be avoided. In making proposals regarding provincial legislatures they wrote (paragraph 232) as follows: "Special electorates will no doubt be required for the representation of planting and mining interests, for the Chambers of Commerce, and possibly also for the universities; but we desire that the number of such electorates should be as restricted as possible, and that minority interests should, where necessary, be represented not by class or interest electorates but by nomination." In the case of the great landowners they thought that there would be a case for giving them an electorate of their own; otherwise, since they regarded nomination as "one of the necessary illogicalities attendant on a transitional period", they appear to have entertained objection not only to the electoral method of special representation but to special representation itself. In dealing with the Legislative Assembly (paragraph 273) they said "Some special representation, we think, there must be, as for European and Indian commerce and also for the large landlords . . . . . There is no difficulty about direct election in the case of special constituencies."

The Franchise Committee in their proposals regarding provincial legislative councils (paragraphs 21 to 24 of their report) justified the maintenance of separate electorates for zemindars and landlords, universities, and commerce and industries, and they therefore recommended a very sparing use of nomination. As regards commerce and industry they said "We are satisfied that the method of representation through associations has worked well in the past, and should be continued in the future. Where, therefore, we have found association which have proved to our satisfaction to be fully representative of the various interests concerned, we recommend that election to the special seats provided by us for commerce and industry should be made by their members. In the three provinces of the Punjab, Central Provinces and Assam where there is no organized association of sufficient importance for the representation of Indian commerce, we recommend a special electorate consisting of factory-owners and the representatives of registered companies."

Representation in provincial legislative councils.

3. The proposals of the Franchise Committee regarding provincial legislatures were in the main accepted by the Joint Select Committee in their first report on the Government of India Bill, and effect was given to them with modifications of details in the rules of which the Joint Select Committee approved in their first report on draft rules. The position as regards special representation by election to provincial legislatures is shown in the following table; the arrangements for Burma were reached separately in 1923.

Province.	Total Strength of Council.	Nominated non-officials.						Landholders.	Members elected by vocational electorates.													
									Commerce and Industry including mining and planting.												Universities.	Total vocational.
		Depressed classes.	Labouring classes.	Cotton Trade.	Indian Commerce.	Industry other than planting and mining.	Total nominated non-officials (Minimum number.)		Planting.	Mining.	European Chambers of Commerce.	Indian Chambers of Commerce.	Trades Associations.	Millowners Associations.	Jute Trade.	Tea Trade.	Indian Associations.	General.	Total Commerce and Industry.		
Madras	132	10	...	..	..	..	11	6	1	..	2	2	1	..	..	..	..	..	6	1	13
Bombay	114	2	3	1	..	..	8	3	..	..	3	1	1	2	..	..	..	..	7	1	11
Bengal	140	1	2	...	..	..	6	5	..	1	6	2	1	..	2	1	2	..	15	2	22
United Provinces	123	1	...	...	..	..	5	6	..	..	2	1	..	..	..	..	..	..	3	1	10
Punjab	94	..	1	...	..	..	7	4	...	..	..	..	..	..	..	...	...	2	2	1	7
Burma	103	...	1	...	1	..	8	0	..	..	2	2	1	..	..	..	...	..	5	1	6
Bihar and Orissa	103	2	1	..	..	1	9	5	1	2	..	..	..	..	..	..	..	..	3	1	9
Central Provinces*	*73	4	1	...	..	..	8	3	..	1	..	..	..	..	..	..	..	2	3	1	7
Assam	53	..	1	...	..	..	5	..	5	...	..	..	..	..	..	..	..	1	6	..	6

* Members nominated as the result of elections in Berar are classed as elected.

Constituencies for the representation of commerce and industry are all associational, except in the three cases mentioned by the Franchise Committee, where the constituencies extend over the whole province.

Special representation in the Central Lagislature.

4. For the Legislative Assembly the Franchise Committee proposed a constitution based on a careful determination of suitable provincial quotas, and inside these quotas they recommended that the following vocational interests should be given separate representation by election, namely, landholders, European commerce and planting, and Indian commerce. The guiding principle of fixing first the provincial quotas was accepted and it has since then been a governing consideration in dealing with all requests for increased representation; but the Government of India in paragraph 36 of their Fifth Despatch took objection to the proposals for the representation of special interests. The Joint Select Committee on the Government of India Bill, dealing only with the fundamental point at issue, affirmed the principle of direct election as the proper method of constituting the Legislative Assembly and left the Government of India to submit detailed proposals after consultation with local Governments. This was done, and draft electoral rules were submitted to the Joint Select Committee who dealt with them in their first report on Draft Rules.

The necessity of respecting provincial quotas and the limited size of the Chambers of the Indian Legislature restricted the extent to which representation could be given to special interests. The only vocational interests therefore for which separate electorates have been framed are landholders and Indian commerce, who obtain special representation in the Legislative Assembly, and European commerce, which is separately represented in the Council of State. Where commerce has not been given special representation it was thought that it would in practice obtain representation through the general constituencies. The only vocational representation by election in the Legislative Assembly is therefore the 7 seats granted to landholders and the 4 seats for Indian commerce, and in the Council of State the 3 seats for European commerce. The landholders' constituencies are all territorial. The commercial constituencies are associational, except the Madras constituency which is province-wide, the main qualification of an elector being assessment to income derived from business. No nominations to the Indian Legislature have been reserved for special interests.

Commerce and Industries.

Demands for increased representation of trade and commerce. Provincial Legislative Councils.

5. It has been necessary to draw so freely on past discussions if only because the claims which have been made for increased vocational representation and the considerations which weighed with the Government of India in approaching them cannot otherwise be appreciated. These claims have been advanced in spite of the declared intention of the Joint Select Committee (Report on the Government of India Bill, clause 7) that the franchise as settled by the rules under the Act should not be altered for the first ten

years. They have been most numerous in regard to commercial interests.

The Government of India has little evidence in its possession of any dissatisfaction with the representation of commerce in the provincial legislatures. The representation there is on the scale shown in the statement in paragraph 3 above, and, since commerce itself, and such allied matters as railways, shipping, customs and currency are central subjects, the more immediate concern of commercial interests is with the Central Legislature. Nevertheless claims have been advanced by the Punjab Chamber of Commerce, the Burma Indian Chamber of Commerce, and the Karachi Indian Mercantile Associations.

The first named Association shares with the Punjab Trades Association one seat in the Punjab Legislative Council. In 1920 when the electoral rules had not yet issued the Chamber protested strongly against the insufficiency of the representation proposed for them, and particularly against their combination with the Trades Association. They urged that the Chamber and the Association represented different and possibly conflicting interests, namely, commerce and retail trade, that formerly the Chamber enjoyed an entire seat in a smaller council, that it ranked in the Associated Chambers of India and Ceylon equal with the Upper India Chamber of Commerce and that it represented both European and Indian Commerce in North-West India. The Government of India accepted these arguments and recommended to the Secretary of State that one more seat should be added to the Punjab Legislative Council and assigned to the Chamber, leaving the existing seat to be shared in rotation by the Chamber and the Association. The recommendation, however, was received by the Secretary of State too late to be included in the Punjab Electoral Rules. The Chamber repeated their request on the same grounds in 1921 and 1923, demanding on the latter occasion at least two seats in the local legislature. It was, however, considered to be inexpedient on general grounds to make any changes for the present in the composition of the Legislative Council. The claim of the Chamber has, therefore, been left for consideration when a general revision of the rules is undertaken. Meantime the desirability of giving a seat by nomination either to the Chamber or the Association, whichever of the two was unrepresented in the Council as the result of the elections by the composite constituency, was commended to the consideration of the Governor of the Punjab. It is understood that in practice His Excellency has found it possible to give this representation.

The Burma Electoral Rules provide no constituency for Indian commerce but secure its representation by the assignment thereto of one of the nominated seats. In 1926 the Burma Indian Chamber of Commerce approached the Government of India with the request that they should be given representation by the election of three of their members. The Chamber was not in existence when Burma received a reformed constitution and the Burma Electoral Rules were made. On that occasion Indian commerce was, as has been

said, given representation by nomination but the intention was that the method of representation should be changed to election when an Indian Chamber of Commerce came into existence. The Chamber's demand for three seats is considered extravagant, for experience has shown that Indian Commerce is sufficiently represented by one member. But the Secretary of State in Council has accepted the proposal to withdraw the provision for nomination and to add one member to be elected by the Burma Indian Chamber of Commerce. This change will be given effect to before the next general election to the Council.

In 1927 the Karachi Indian Merchants' Association and the Buyers and Shippers' Chamber in an address presented to His Excellency the Viceroy asked that their claim to separate representation on the Bombay Legislative Council should be brought to the notice of the Royal Statutory Commission, on the ground that out of the seven seats allotted to commerce in the Presidency there is not even one reserved for Indian commerce in Karachi.

These representations do not suggest, nor have the Government of India reason to believe that in practice and on definite matters provincial legislative councils, for lack of an adequate commercial element in their composition, have given insufficient attention to commercial interests. It is possible that the grounds of dissatisfaction may ultimately relate to the method of representation through associations and to the position of the various associations rather than to the total representation of commercial interests within each province. On the other hand the proportion of business men in the Punjab Legislative Council may be defective. The extent to which general constituencies can be relied on to provide due representation of important commercial interests and the most appropriate methods of distributing the total special representation which provincial conditions warrant are matters regarding which the Government of India has as yet insufficient information. It is, however, noteworthy that commercial representation on local legislatures was not a matter brought to the notice of the Reforms Enquiry Committee by any commercial association.

Demands for increased representation of trade and commerce—The Indian Legislature—European commerce.

6. The representation of commerce in the Indian Legislature differs, as has been observed, according as the interests of European or Indian commerce are concerned. It will be convenient, in dealing here with claims which have been urged, to observe the same distinction. The only provincial association of European commerce which has claimed representation which it does not now enjoy in the Legislative Assembly is the Punjab Chamber of Commerce. This Association, which contains an almost equal number of European and Indian members and represents both European and Indian commerce in the Punjab, had in 1921 been informed by His Excellency Lord Reading that the representation of European commerce in the Council of State could not be increased and that the Chamber was no worse off than more important associations elsewhere. Nevertheless, in 1923 the Chamber demanded a seat in the Indian Legislature. It urged that, unlike the European commerce of Bengal, Bombay, Karachi, Madras and the United Provinces,

the commerce of Northern India had been given no chance of obtaining representation even indirectly. It pointed out that it is in the Legislative Assembly that all legislation relating to Commerce, Industry and Finance originates, is discussed and takes final form. The Government of India decided that it would be a mistake, by the addition of a seat in one province to disturb the careful balancing of the claims of one province against another which was the first step taken in determining the composition of the Legislative Assembly and they were aware that there were many other commercial bodies which had a much greater claim than the Punjab Chamber. They, therefore, refused to accede for the present to the Chamber's request.

The claim of European commerce and industry to direct representation in the Legislative Assembly was strongly pressed upon the Reforms Enquiry* Committee. The Committee recorded no clear opinion regarding the validity of the claim, but rejected it for the moment on general grounds. They thought† that a general revision of the constituencies of the two Chambers should be awaited before any change is made in this respect, and they were unable to recommend that such a general revision of the constituencies should be undertaken at that time.

The claim was not supported by any detailed arguments addressed to the Reforms Enquiry Committee but was urged with more elaboration by the Associated Chambers of Commerce for India and Ceylon in communication with the Government of India. That Association was composed of a number of influential European Chambers of Commerce, though there was nothing in its Articles to preclude the election to it of purely Indian Chambers. In 1922 it put forward a claim for its own direct representation in the Legislative Assembly on the ground that its exclusion is not only unfair but unsatisfactory because it restricts the examination and discussion of commercial legislation. The Government of India considered various means of meeting the wishes of the Association and finally announced that in the event of the existing Association being reorganized so as to include European Chambers and Indian Chambers of approved standing they would be prepared to consider sympathetically a proposal to grant to the reorganized Chamber two new seats of which a clear convention would allot one to each community.

It is presumed that the suggestion for a reorganization of the Association bore no fruit for in 1923 it made a demand for the creation of new seats in the Legislative Assembly for the direct representation of British Chambers of Commerce. It pointed to the direct representation in the Legislative Assembly enjoyed by other Chambers and Associations, and it laid stress upon the vital importance to its interests of questions discussed in the Legislative

* Appendix No. 5 to the Report of the Reforms Enquiry Committee, page 228—Memorandum of the Central Administration European Association, Calcutta, paragraph 14, *ibid*, page 231—Memorandum of the Bengal Chamber of Commerce, paragraph 5.

† Report of the Reforms Enquiry Committee, paragraph 118.

Assembly and the expert advice on such subjects which its representatives could give. The demand in this form the Government of India could not accept, for it was unable at the present juncture to recommend an increase in the number of European seats, whether general alone or general combined with European commerce, beyond 9. It therefore asked the Associated Chambers to supply a definite scheme for the representation of European commerce on the alternative assumptions (1) that the total European seats will be restricted to nine, (2) that there may be an increase in the number of European seats. But it pointed out that any scheme on the second alternative could be introduced only after a considerable increase in the number of elected seats in the Assembly had been made, and that no such increase was then contemplated. In reply to this invitation the Associated Chambers were unable to suggest any disturbance of the existing arrangements, and left the matter for consideration on the second alternative arising. The Associated Chambers, however, have secured representation by nomination in the second and third Assemblies.

Demands for increased representation of trade and commerce—The Indian Legislature—Indian commerce.

7. Indian commerce has not raised the question of its representation in the Council of State, where at present it has no direct representation. In the Legislative Assembly the commercial interests of Madras, Bombay and Bengal alone are directly represented. The Indian Mining Federation, the Karachi Indian Merchants' Association, and the Burma Indian Chamber of Commerce have made requests for representation, but none of these requests showed any good ground for anticipating a general revision of the franchise.

The Bengal National Chamber of Commerce elects to one seat in the Legislative Assembly in rotation with two other associations. The Millowners' Associations of Bombay and Ahmedabad also elect to one seat in rotation. The Chamber and the Millowners' Associations have asked to be given each its own member, on the ground, in each case, of the importance of the interests which they represent, and, in the case of the Associations, of the divergence of their interests. These requests also have been reserved for consideration when a general redistribution of seats is undertaken.

Arguments for and against special representation of commerce.

8. The claims for increased representation of commerce which have been presented to the Government of India, so far as they urge the importance of the commercial matters with which the Legislative Assembly deals and the desirability of having a number of business men in that Chamber, are on sound ground. They all, however, assume three propositions for and against which there is much to be said. They assume that commercial interests cannot be entrusted to general representation, that the special representation of commerce, which must therefore be given, must be by election and not by nomination, and that special commercial electorates must be associational and not territorial.

Against the first assumption it may be argued that actually business men have been returned in considerable numbers to the three Assemblies since the Reforms were introduced, and that the

Legislative Assembly has given full consideration to commercial interests in the very important legislation which has been undertaken. In the present Assembly about a dozen business men sit for general constituencies in addition to those returned by the European constituencies. It has never been necessary, for the purposes of any particular discussion, to introduce by nomination an expert element into the House, and the business members of the Assembly have not on any important questions found themselves at variance with the general sense of the House. The advocates of special representation would reply that general representation, although it has in the past had these results, cannot be relied upon to secure business representation, that it has in fact secured inadequate business representation, and that the consideration which business interests have received is in large measure due to the action and to the voting strength of Government, which through the Tariff Board and in other ways has maintained a close acquaintance with commercial conditions and requirements. It cannot be assumed that Government will in future be in the same position to act effectively as the friend of business interests. Commerce in the new constitution must be independent of such assistance. They would, therefore, press for an adequate block of members who are themselves business men and who have the interest of business at heart.

In the particular case of European commerce these arguments would take the following form. On the one hand, so long as there is special representation of general European interests the burden of justifying the discrimination of European commercial interests from European general interests lies heavily on those claiming vocational representation. Actually, general representation does mean a representation of commerce, for commercial men have always held the majority of European general seats in the Assembly. Separate representation of European commerce involves further a discrimination between European and Indian commerce which it is undesirable to make. On the other hand, circumstances might well arise, such for instance as those attending the Ilbert Bill, in which European general constituencies would probably not return business men. Representatives of general constituencies do not possess and have not in the past acknowledged a mandate from commercial interests. They do not, therefore, carry that weight in the House which members for special commercial constituencies would carry. European business men of the best type are reluctant to stand for election by the general community. Special representation is, therefore, necessary in order to secure that the European representatives in the Assembly will be men of weight in the commercial world.

Arguments for and against commercial electorates.

9. If the necessity for special representation be conceded it may be argued that the objection of the authors of the report on Indian Constitutional Reforms to special electorates for provincial Councils has equal validity for the Legislative Assembly. However desirable it may be to introduce an expert element into the Assembly, it is highly inadvisable to introduce cleavage into the

electorate. Nomination has secured in the past efficient representation not only of other interests such as labour but also of commercial interests, as in the cases of the Associated Chambers in the Legislative Assembly and other Chambers in provincial legislatures. Special electorates are theoretically inconsistent with the introduction of a Parliamentary Executive. On the other hand it is notorious that in the past business men returned by general constituencies have taken views on commercial matters differing from those entertained by responsible commercial opinion outside the Assembly, and the feeling is strong that commercial representatives should have a commercial mandate and be answerable to commercial influence. It cannot be assured that nomination will always secure suitable personnel.

Arguments for and against associational electorates.

10. The claims for extended representation which have been urged upon the Government of India give some ground for the opinion that the present arrangements for commercial constituencies are not altogether satisfactory. Existing associations are by no means exhaustive of commercial interests. Those associations which have obtained representation do not include all effective associations, and fresh claims are made, not solely with a view to parliamentary representation, but also in order to obtain recognition and importance as commercial bodies. The association of business interests in India in corporate bodies has not yet reached a stable regime. It is possible, therefore, that the recognition of associations as electoral constituencies will involve frequent alterations of the franchise. The distinction between European and Indian commerce for purposes of association tends to become blurred. In many places, the associations which have obtained representation are close corporations, of which the committee is a somewhat aristocratic body composed of the principals of firms of a fairly commanding position. There is much room for simplification in commercial association in the direction of comprehensive and liberal institutions.

On the other hand the recognition of Chambers of Commerce as electoral constituencies is a privilege which has long been enjoyed. The arrangement succeeds in securing men of weight in the commercial world as members of the legislatures. It sends them to the legislatures with a mandate from an authority which remains competent to enforce it, and it facilitates their continuous attendance. A chamber can always get its representative to resign if he cannot attend the legislature, and can elect another without difficulty, whereas the process of substituting a representative of a general constituency is far more cumbrous.

Landholders.

Representation of landholders.

11. The only other interest which enjoys special representation in the Indian Legislature is that of the large landholders. This is a privilege which was enjoyed in pre-reform days both in the Indian Legislative Council and in most of the provincial Councils. But before the introduction of dyarchy there was no special repre-

sentation of landholders in the Legislative Councils of the Punjab and Burma. The principle which was enunciated by the authors of the Report on Indian Constitutional Reforms in regard to provinces (paragraph 232 of the Report) was that where the great landowners form a distinct class there will be a case for giving them an electorate of their own. The authors also proposed to give the landed classes separate representation in both Chambers of the Indian Legislature (paragraphs 273 and 277). The Franchise Committee accordingly made proposals which would have resulted in the creation of a total of 35 constituencies for landholders in the provincial Councils, 10 constituencies for the Legislative Assembly and 2 constituencies for the Council of State. These proposals would have raised the landlord constituencies for provincial Councils from 23 to 35 and would have introduced special representation for the first time into the Punjab, but because of the increased size of provincial councils it would have resulted in a drastic reduction in the proportion of landlords' representation in most provinces.

The Government of India in their Fifth Despatch (paragraph 16) approved of the special representation of great land-owners where they formed a special class, but in the preceding paragraph they took exception to the electoral qualifications proposed by the Franchise Committee and desired to re-examine the proposals with local Governments. The Chairman of the Franchise Committee, in a memorandum presented to the Joint Committee, made reply to the criticisms of the Government of India. The Joint Select Committee on the Government of India Bill, however, directed that the special representation of landholders in the provinces should be reconsidered by the Government of India in consultation with local Governments. This reconsideration resulted in the total number of landholder constituencies for provincial councils being reduced from 35, as originally proposed, to 32, distributed as follows:—

Madras	6
Bombay	3
Bengal	5
United Provinces	6
Punjab	4
Bihar and Orissa	5
Central Provinces	3
	32

No separate representation was given to landlords when the electoral rules for Burma were framed.

In paragraph 36 of the Fifth Despatch the Government of India criticised the Committee's proposals for the representation of landholders in the Legislative Assembly and in place of 10 seats proposed to allot 7 seats to this interest. In spite of the defence of the Committee's proposals made by Lord Southborough in the memorandum which he submitted to the Joint Select Committee on the Government of India Bill, the proposals of the Government of

India were finally accepted in the electoral rules. The Government of India when forwarding the draft electoral rules to the Secretary of State observed " The great landlords enjoy at present separate representation on the Indian Legislative Council. We have not thought it wise or just to abolish the privilege which has come to be regarded as a right, but we see no justification for allotting to them anything in excess of the 7 seats now reserved for them. As a class the landlords have no interests which are likely to be specially affected by legislation with which the Indian Legislature will be concerned. Tenancy law is one of the subjects reserved for the Provincial Councils and it is in these Councils and not in the Assembly that the agrarian contests of the future will be fought and decided ". One seat each was allotted for the landholders of Madras, Bombay, Bengal, United Provinces, Punjab, Bihar and Orissa and the Central Provinces. It was not found necessary to provide for the separate representation of landowners in the Council of State. The composition of the general electorates was expected to secure to the landowners their due share of representation. This anticipation has been more than fulfilled and in the existing Council of State the landowners number as many as 16 out of 34 elected members.

The representation of landholders in the provincial Councils.

12. The electoral qualifications for the landholders' constituencies naturally vary from province to province, for they seek to follow the features of provincial economy which distinguish landholders as a separate class. In a few cases, for instance, in Bombay and the Central Provinces the qualification, in addition to the ownership of land, is recognition of a hereditary title. But generally the qualification is the payment of a certain amount of land revenue, the amount varying from Rs. 500 per annum in the Punjab to Rs. 4,500 in the Burdwan and Presidency Divisions of Bengal. The constituencies vary in the number of their electors from province to province. The electorate of the constituency in the Chota Nagpur Division is as small as 36. Constituencies of which the total number of electors is in the neighbourhood of 50 are common. In the Punjab the general constituency has 697 electorates, while the electors in the Sikh landholders' constituency and the Muhammadan landholders' constituency number 872 and 1,606 respectively. The elections are as freely contested as in the general constituencies and the percentage of voters going to the poll is frequently high.

The only claim which the Government of India have received regarding the representation of landowners in provincial councils is that made by the Agra landholders. This class had elected to one seat in the old Council and the Franchise Committee (Report, paragraph 21), disregarding the proposal of the local Government to withhold special representation, proposed to retain that privilege undiminished and unaugmented. They recommended, however, at the same time that the representation of the Talukdars of Oudh should be increased to 5 seats. The Government* of India consi-

* Fifth Despatch on Indian Constitutional Reforms, paragraph 16.

dered that so marked a discrimination between Agra and Oudh could not be justified. They, therefore, proposed to distribute 6 landholder seats equally between Agra and Oudh. The views of the Franchise Committee were pressed upon the Joint Select Committee in Lord Southborough's memorandum in which he explained that the Agra landlords had only recently organised an Association and were not so important a political body as the Talukdars; there were a few ancient families, but many were new purchasers and none possessed special rights and privileges. The Joint Select Committee did not decide between these conflicting views but directed that the special representation of landlords in the provinces should be reconsidered by the Government of India in consultation with the local Governments. After consulting the Government of the United Provinces the Government of India submitted draft rules which were accepted by the Joint Select Committee and which granted four seats to the Talukdars and two seats to the landholders of Agra.

The Agra landholders did not long remain content with this position for on the 22nd March, 1923, their representative moved in the United Provinces Legislative Council a resolution for the increase of their representation from two to four seats without decreasing the representation of the Talukdars. The grounds on which this demand was justified were the large proportion of the provincial revenue which was contributed by the class, the services which they had rendered in the war, their good work in the Council, and the danger of the time coming " when they would find it very difficult, almost impossible, to secure a seat through the general electorate ". The Government of the United Provinces expressed their sympathy with the resolution, which was carried without a division. It appeared however that in addition to the two seats allotted to them, the Agra landholders had no less than 32 representatives in the provincial Legislative Council, of whom 23 could be definitely regarded as representing the interests of landholders. It was, therefore, decided that at that time no change should be made and that consideration of the adequacy of the special representation of the Agra landholders must be postponed until a general revision of the franchise takes place.

The representation of landholders in the provincial Councils. General considerations.

13. The necessity and the propriety of continuing in provinces special representation of the nature are questions for consideration in the light of the information which enquiry into provincial conditions and the operation of provincial constitutions may yield. The present system is admittedly representation of a class which has an individual position in provincial economy, but it is also a recognition of the necessity for bringing all views to bear on agrarian questions which in many provinces have engaged, and in all provinces may engage, the anxious attention of local legislatures. On the one hand the degree to which the tenant class has been enfranchised differs from province to province, and on the other there is no uniformity in the extent to which the large landholders form a separate class within the general proprietary body, or can

secure representation through the general electorate or, indeed, have separate interests. On all these matters careful enquiry from province to province is necessary. It may be that the solution will differ in provinces with a uni-cameral and in those with a bi-cameral legislature, even though the conflict between the interests of tenants and the interests of the whole proprietary class must in the first instance be fought out in the popular chamber. But the fact of distinction between large and small landholders is a matter, in the first instance, for provincial enquiry.

Representation of landholders in the Legislative Assembly.

14. The electoral qualifications for the landholders constituencies for the Legislative Assembly are similar to the qualifications required for the provincial Councils, but in some cases the monetary qualification according to the land revenue assessment is somewhat higher. The lowest qualification is that in the Punjab where the payment of Rs. 1,000 per annum as land revenue carries the right to vote. The corresponding figure in the United Provinces is Rs. 5,000 which is also the qualification required in the Central Provinces, while in Bihar and Orissa an elector must pay a land revenue assessment of not less than Rs. 10,000 per annum. The constituencies, however, are not small in comparison with the corresponding provincial constituencies except in Bihar and Orissa where there are only 129 electors. The Sind and the Punjab constituencies include over one thousand electors each and the United Provinces constituency has 993 electors. Four out of 7 constituencies were contested at the last election and the percentage of voters was high. Six of the constituencies were contested in 1923. There has not in the Legislative Assembly been any legislation which has particularly affected the interests of this class.

The only claim which has been received by the Government of India in connection with the representation of landholders in the Legislative Assembly was that of the landholders of the Bombay Presidency. This class returns a member to the Legislative Assembly in rotation with the landholders of Sind. On its behalf Sirdar V. N. Mutalik, M.L.A., requested that the Sirdars of the Deccan, the Sirdars of Gujerat and the Inamdars of the Presidency, who form the landholders' constituency of Bombay Presidency, should be given a seat of their own in the Legislative Assembly. He argued that they formed the aristocracy and the landed gentry of the Presidency, that they held 2,083 out of 20,863 villages in the Presidency, paying for them and other lands about one-fifth of the total land revenue of the Presidency, that their concerns were distinct from those of the landholders of Sind, and that they formed a constituency on a par with similar constituencies of other provinces which have received separate representation in the Legislative Assembly. Some of these arguments had relevancy only to representation in the provincial council, and the decision of the Government of India was against re-opening, pending the question of a general re-distribution of seats in the Legislative Assembly, a question which had been carefully considered when the electoral rules were framed.

15. The grounds on which special representation in the Legislative Assembly has been granted to the large landowners are described in the quotation which has been made from the Government of India Despatch. The representation is that of a class rather than of an interest, as is indeed clear from the criterion applied by the Franchise Committee. In favour of its retention it may be argued that the presence of this element in the Legislative Assembly is desirable, that there are general grounds on which it is well to recognize its separate status, and that the privilege cannot now be withdrawn. On the other hand this class, it may be contended, is able to secure its adequate representation through the general constituencies, and in fact a score of its members sit in the present Assembly as representatives of general constituencies. Representation of landholders in the Legislative Assembly. General considerations.

University Representation.

16. The only special representation of education is that given through University constituencies which return representatives to provincial legislatures. There is no special representation of Universities in the Central Legislature. The present arrangements originated in the proposals of the Franchise Committee (Report, paragraph 22) which contemplated "the maintenance of the existing arrangements by which the interests of University Education are represented in the provincial Legislative Councils by a member elected by the Senate and Fellows of the University of the Province." To these proposals the Government of India (Fifth Despatch, paragraph 14) took exception on the grounds that there is no real divergency of interests between the Universities and the educated classes in general, that the representatives returned by University constituencies will not be different in kind from those of the professional classes in general and that some danger of carrying politics into academic circles was involved. This criticism was examined by Lord Southborough in his evidence before the Joint Select Committee when he explained that the intention was not to give representation of the interests of the educated classes but of the special interests of University corporations and that the electorate will, therefore, be confined to the members of the Senate and Honorary Fellows. But he accepted the criticism of the Government of India so far as to deprecate the enlargement of the electorate by the inclusion of all registered graduates. The Joint Select Committee on the Government of India Bill, however, referring to clause 7 of the Bill directed that the franchise for the University seat should be extended to all graduates of over 7 years' standing. The Committee appear, from their examination of witnesses, to have been impressed by the analogy of the English practice. They had before them the Congress demand for the inclusion of graduates in the University electorates and objections [Q.-9763 (19)] to constituting "a new and disguised Government electorate". It was contended that more than 80 per cent. of the Fellows are Government nominees and the greater proportion of them are Government officials. The effect of the decision of the University representation.

Committee was to convert this special representation from a representation of interests to a representation of a particular class. The electoral rules have been framed in accordance with the decision of the Joint Select Committee. Normally the franchise does not go lower than graduates of 7 years' standing, but Doctors and Masters of the Allahabad University without time-limit and all registered graduates of the Dacca, Rangoon, Patna and Nagpur Universities have been enfranchised. The constituencies which have been formed and the total number of electors in each are as follows:—

Constituency.	Total number of voters.	Percentage of voters voting at last election.
Madras University	9,662	Not contested.
Bombay University	6,300	65·73
Calcutta University	7,886	74·30
Dacca University	1,577	95·20
Allahabad University	4,141	71·77
Punjab University	3,210	80·37
Patna University	795	85·41
Nagpur University	556	91·36
Rangoon University	133	Not contested.

The strength of the electorates suggests that these constituencies are not representative of the managing bodies of the Universities, and therefore of University interests, but rather of the class who have received the highest standard of education, an arrangement which differs from that in force before the inception of the reforms.

Universities which have no representation.

17. The Universities which at present exist and have no special representation are the Lucknow, Agra and Andhra Universities, which are provincial institutions, and the Benares Hindu, Aligarh Muslim and Delhi Universities. The Andhra and Agra Universities are of recent origin. Their representation has not been considered. The consideration of the representation of the Lucknow University was not pursued, as other interests were involved and it appeared undesirable to disturb the nicely adjusted balance of representation in the local Council. At the same time, it was but natural that the new Universities, which are steadily increasing in number, should seek the privilege of representation enjoyed by the earlier foundations. The Franchise Committee recognised the equity of giving such representation by making provision for the representation of the then newly established Universities of Dacca, Patna and Nagpur. If the principle that Universities, as enjoying a special corporate life of their own and as the custodians of a highly specialised activity, deserve representation be recognised, the existence of more than one such body in a province should not present any serious obstacle to the devising of means for securing representation for them on Local Legislative Councils. A system of joint University electorates, such as the one which prevails in so far as the Scottish and provincial English Universities are concerned could be adopted for the purpose. The units constituting the electorate might be some part of the University organism or all

registered graduates of a certain standing of all the Universities in the same constituency. The Benares Hindu and Aligarh Muslim Universities aim at an All-India status. They have been classified as central subjects under the Devolution Rules. They receive grants from central revenues and draw students from outside the United Provinces. The former demanded representation on the Legislative Assembly when the electoral rules were framed. The claim, however, was rejected. It was found that the bulk of the students were residents of the United Provinces and the seat asked for would, therefore, be in effect an addition to the representation of that province. It would further be necessary, if the claim was conceded, to allot a seat to the Aligarh Muslim University which also, in the main, is a provincial institution. If the Benares and Aligarh Universities are not to be regarded as All-India Universities, having a special claim to representation on the Central Legislature, but as provincial institutions, their claim to representation may be considered as part of any scheme of readjustment of University representation in the United Provinces.

The Delhi University is a small institution created by an Act of 1922 in an area directly administered by the Government of India. Its financial stability depends upon grants made annually by the Government of India, and its Court includes six members of the Legislative Assembly, of whom one is elected by the Assembly and the rest are nominated by Government. The Joint Select Committee of the Central Legislature on the Delhi University Bill expressed the opinion that provision should be made in due course for the representation of the University in the Legislative Assembly by one member elected by the Court. Thus the recommendation was for a representation different in essence from the representation enjoyed by any University in India. It contemplated the representation not of the educated classes but of the interests of the University through its chief governing authority. The recommendation and a subsequent request to the same effect made by the University were rejected on the grounds that the time was inopportune for reaching a decision. The difficulty, however, of considering such a claim favourably in future, except as a part of a larger scheme of giving Universities in British India representation on the Central Legislature, will probably be recognised.

General considerations.

18. The question of separate University representation has two aspects. It may be either representation of University interests or the representation of a class who have attained a certain high standard of education. In regard to the second aspect it may be argued that the narrower the franchise the less the justification for granting special representation to the graduate class. The majority of members of the Legislative Assembly belong themselves to that class. The case for special class representation may be stronger in provinces, for the electorate is wider and less highly qualified. But in provinces also it is probable that the graduate class contributes very largely to the personnel of the Council. In regard to the former aspect the questions arise—What are the parliamentary

interests of each University? In what arena are they at stake? Much depends on the view taken of the importance of Universities in shaping the life of the nation. Treated as groups with a corporate existence and outlook of their own, they are entitled to have their claim to represent the highly specialised and vital activity which they direct fully considered. The fact that occasions on which important measures affecting the life of Universities have come up before the Central Legislature since the inception of the Reforms have been few may be no guarantee that such measures will not come up in future. Equally the fact that the members of the Central Legislature may include men who are associated with the academic life of some University is no guarantee, either that they have a special mandate from the University or that they are specially qualified to speak on questions of University administration or activity. These considerations may point to the desirability of treating the Universities of India, viewed as organic bodies, as a suitable electorate for the representation on the Central Legislature of a highly specialised national activity. Against this must be set (1) the general considerations which may be urged in opposition to the representation of special interests in a democratic constitution and (2) the fact that no parallel exists for such representation in the Dominions or in the United States of America.

Cantonments.

The claim of residents in cantonment areas.

19. Under the existing electoral rules the house-owners and taxpayers of cantonments form part of the general constituencies and have no separate representation either in the provincial or in the central legislatures. In 1923, however, the All-India Cantonments Association represented to the Government of India the necessity for separate representation of cantonment interests in the Legislative Assembly, and the demand has been repeated in subsequent years. The basic reasons underlying the request of the All-India Cantonments Association for representation in the Assembly, were that the administration of cantonments is a Central, and not a Provincial, subject, and that legislation on cantonment matters has for some years figured at frequent intervals in the business of the Legislative Assembly and will probably continue to do so. It was urged that cantonment interests require special advocacy, and that a member returned from a general constituency is neither competent nor morally bound to study the particular needs of persons residing in cantonments. The demand for a separate electorate was refused on the grounds that with cantonments spread all over India no effective constituency could be created from among the residents in them, and that the conditions of residence in cantonments are not so peculiar as to require separate representation. An undertaking was, however, given to the effect " that in the event of no person having special knowledge of cantonment conditions being returned at the forthcoming general elections, the Government of India would consider whether it would be possible to nominate such a person ". The first and second Assemblies contained persons

with such special knowledge and no nomination of a representative of the interest was made. After the election to the third Assembly the Government of India, in view of other claims were unable to make room for a nominated member to represent cantonments.

Labour.

20. In earlier legislatures industrial labour did not enjoy representation. Even now it is only in some of the legislatures set up under the Act of 1919 that labour representatives sit. The original proposal made by the Franchise Committee (Report, paragraph 24) was for the creation of one seat, to be filled by nomination, in each of the provincial legislative councils of Bombay, Bengal, Bihar and Orissa and Assam. But the claims of the urban wage-earning classes were further examined in consequence of the suggestion made by the Joint Select Committee on the Government of India Bill (Report on clause 7). In the course of that investigation it was found that only in Bombay and Calcutta and its neighbourhood were any special measures necessary in the interests of this section of the population. Elsewhere the peculiar problems associated with the growth of industrialism had not begun to appear on a large scale, and the urban wage-earners were not sufficiently differentiated from other classes to make it practicable to provide specially for their representation. But in the two large cities the feasibility of creating a special franchise for millhands in receipt of a certain minimum wage, so as to bring them on the rolls of general constituencies, and also in Calcutta of forming special constituencies for them was considered. The Joint Select Committee (First Report on Draft Rules, paragraph 6), however, saw insuperable objections to a solution on these lines, and fell back upon nomination. Accordingly two seats, to be filled by nomination, were reserved for the representation of labour in the Bengal Legislative Council and one each in the Legislative Councils of Bombay, Bihar and Orissa, and Assam. A nominated seat for labour was allotted in the Burma Legislative Council when the reforms were introduced in that Province. No nominations to the Central Legislature were reserved for labour. Special representation of labour.

The matter again came under discussion when the Reforms Enquiry Committee sat in 1924. The Committee considered the existing representation in provinces inadequate, and recommended the grant of some definite representation in the Legislative Assembly. But opinion differed as to the method of representation. The Minority [Report, Chapter VIII (*c*)] favoured inclusion in the general electorate by a lowering of the franchise, but as a temporary measure were prepared to accept election in special constituencies. The majority anticipated that practical difficulties would compel the retention of nomination to the exclusion of the method of election which they preferred.

These recommendations necessitated in 1925 an enquiry from local Governments regarding the conditions in provinces, and also gave occasion for demands to be made on behalf of labour. During

the discussion of the report of the Reforms Enquiry Committee in the Assembly on 8th September 1925 these demands were stated by the nominated labour representative to be 80 seats in provincial legislatures and 12 seats in the Legislative Assembly. These seats were to be granted as special representation to the organizations of labour in India so long as the employing classes receive representation through associational constituencies. The same demands were made in the Scheme of Labour Representation in the Central and Provincial Legislatures adopted by the All-India Trade Union Congress in its session at Madras on the 9th and 10th January, 1926.

The enquiries made in 1925 showed that from province to province the wage-earning class varies widely both in its importance and in the degree to which it merges into and is indistinguishable from the general community. The difficulties of a general lowering of the franchise in order to give representation to labour, and of creating special electorates remained as great as in 1920. Trades Unions were considered to be unsuitable as constituencies. They were yet in their infancy. The workers had practically no control over them and they were managed in a number of cases by lawyers and politicians. One effect of granting them representation might have been to increase the tendency then apparent for the infant unions to assume a strong political bias and there was no certainty that representatives so chosen would voice effectively the views of the working classes.

The decision finally taken was to adhere to the method of nomination, but to increase the representation in provincial legislatures from 6 to 10. Three seats have, therefore, been given in Bombay, two in Bengal, and one each in the Punjab, Bihar and Orissa, Burma, the Central Provinces and Assam. These arrangements fell far short of the demands made by the Indian Trades Union Congress. But it was felt that while India, owing to her vast resources, human and material, rightly challenges comparison with any other country as an industrial factor in the world's economy, her workers were not yet sufficiently organised, or sufficiently differentiated in aim or outlook from the general population, to warrant the creation of any artificial means of enabling them to provide themselves with representatives of their own in the Legislatures; and that, as in 1920, all that was necessary or possible in this respect was to enable the point of view of the nascent workers' organisations to be effectively voiced by competent exponents who have made it their special study.

The impossibility of adding to the number of seats in the Legislative Assembly to be filled by nomination precluded any increased representation of the labouring classes in that Chamber.

In 1924 the Indian Seamen's Union made a request that a seat should be allotted to seamen in the Indian Legislative Assembly. The Government of India however were not prepared to recommend such an amendment of the Electoral Rules as would be necessary if the request were entertained.

21. In the Central Legislature a number of labour measures have been passed. These include three Acts amending the Factories Act of 1911, one of which constituted a radical revision of that Act in almost every direction, a new Mines Act (an amending bill has passed the Legislative Assembly and will shortly come before the Council of State), a Workmen's Compensation Act (and a minor amending Act), a Trade Unions Act, an Act regulating child labour in ports and an Act repealing certain provisions of the law relating to criminal penalties for breach of contract by workmen. All these were Government measures, but in some cases action by Government followed on proposals in the Assembly. For example, the Trade Unions Act was the outcome of a private member's resolution adopted in the Assembly and a private member's bill influenced Government in connection with repeal of the Workmen's Breach of Contract Act. The provisions of the Treaty of Versailles have necessitated the introduction and discussion of a large number of resolutions relating to the proceedings of the International Labour Conferences and these have generally led to discussions of interest. On the whole the tactical position of labour, which is represented by one member whom it is His Excellency's practice to nominate, has weakened somewhat. In the first Assembly the interest in labour questions as such was at the outset small. The radical revision of the Factories Act in 1922 went through with a fraction of the discussion that a similar measure would evoke to-day, for the bulk of the House were interested only in the political aspects of the question, such as the status of India abroad. The same feeling to some extent influenced the attitude of the Assembly to the Workmen's Breach of Contract Act. But generally the majority of members had open minds and were on the whole sympathetic to reasonable labour measures. In the debates on the Workmen's Compensation Act of 1923 Government were able to carry through a large and detailed measure without a single amendment being made to which they were opposed. Labour in the Legislative Assembly.

The position changed in the second Assembly. The entry of the Swaraj party brought in a few younger men who had advanced labour views and who were able to exercise considerable influence on policy. But, much more, it meant a distinct strengthening of the influence of employers, the class from which the Swaraj Party derives its strongest support. Thus the efforts on behalf of labour to oppose or modify the various proposals for the imposition of protective tariffs met with comparatively small support. But Government were still in a position to hold the balance between partisans on both sides.

In the third Assembly the influence of capital has become more pronounced. Economic questions have grown in importance until, in 1927, they excited even keener interest than political questions. Accordingly not only did the Swaraj Party remain strongly influenced by capital and regulate its tactics with a regard to the effect of the proceedings of the House on business interests, but even the centre parties of moderate politicians lent strong support

to Indian employers. On the one hand, over the whole period, the number of members of the Assembly directly interested in industries either as employers, or as members of parties supported by employers has increased. On the other hand the feeling that the educated classes generally are sympathetic to labour has influenced the Assembly to a considerable extent. The Council of State has generally devoted less attention to labour matters.

Provincial Legislatures.

22. Provincial legislatures are competent to enact labour legislation. But their output has been small. The only measures which can be regarded as labour measures which have been passed up to the present are an Act repealing the Madras Planters' Act (which included provisions for criminal penalties for breach of contract) and the Coorg Labour Act, which was a step in precisely the opposite direction, as it made provision for the criminal punishment of breaches of contract. In the latter case, the Government of India insisted on the measure having force for a limited period and on other modifications. These changes would not have been made on their own initiative by the local Legislative Council which generally represented the employers' point of view. One obvious explanation of the comparatively small part taken by provincial Councils in labour legislation so far as industrial labour is concerned is that much of the field was occupied by legislation in the Central legislature, but there is reason for believing that the provincial legislatures are in some cases less sympathetic to labour than the Legislative Assembly. An example which may be of some interest in this connection is afforded by the proposed legislation to regulate the construction of factories. Local Governments generally considered such legislation desirable. But on the Government of India deciding to leave legislation of this nature to be undertaken in provincial legislatures, one of the Governments who had approved of legislation endeavoured to secure a reversal of that decision and the introduction of a measure in the Legislative Assembly and having failed to secure their object, definitely decided not to enact the provincial measure. It is possible that there appeared to be no prospect of getting legislation of this nature through the provincial Legislative Council.

Labour representation in future.

23. For the future it must be assumed that the importance of labour will grow. The legislation undertaken by Government has conferred upon it privileges which it is its interest to defend and to extend, and has encouraged its growing organisation. Industrial development which is capable of incalculable expansion must augment its concern with the proceedings of legislative bodies. The necessity for special representation, however, and the place and manner of special representation, if any, can be determined only when the general framework of the new constitution has been constructed. If the new franchises confer the vote on a large proportion of the wage-earning classes the question may be only one of the demarcation of territorial constituencies. The classification of subjects as provincial and central will have a decisive bearing on the determination of the arena in which labour interests

will be in issue. Until the broader matters of that nature have been settled it would be premature to enquire how far Trade Unions have established themselves and whether they are in principle and in fact suitable organs of special representation.

Depressed Classes.

Special representation of depressed classes.

24. The interests of the depressed classes are general rather than special and provincial rather than central. If there is any particular official activity in which they are concerned it is education. But they are also interested in all the public amenities which provincial Governments or local bodies afford and in provincial public services. Their advance and social welfare are a charge specially laid upon the Governor by his Instrument of Instructions. There is no similar provision in the Instrument of Instructions to the Governor General.

Accordingly their parliamentary representation is a question which has arisen directly only in regard to provincial legislatures. It has never so far been proposed to give them elective representation in the Central Legislature, and it was only in the existing Assembly that one member was introduced by nominations as their representative.

In provincial legislatures they enjoyed no representation before the Government of India Act of 1919. But when that Act had been passed their claims received full consideration, first, in the preparation of the Electoral Rules, and, later, in consequence of the report of the Reforms Enquiry Committee. On the first occasion the leading expressions of opinion were contained in the Report of the Franchise Committee (paragraph 24), the Fifth Despatch of the Government of India (paragraph 13), the memorandum presented by Lord Southborough to the Joint Select Committee (paragraph 10), and the Report of the Joint Select Committee on the Government of India Bill (clause 7). The final decision which was incorporated in the Electoral Rules granted these classes representation by nomination to the extent of 5 seats in Madras, 1 seat in each of the provinces of Bombay, Bengal, the United Provinces and Assam and 2 seats in Bihar and Orissa and in the Central Provinces. The grounds of this decision were explained by the Government of India in 1920 as follows:—

"The Committee were of opinion that the representation proposed for the depressed classes was inadequate. This is in accordance with the view expressed in paragraph 13 of our Fifth despatch. That view, however, was based as was also, we understand, the recommendation of the Joint Committee, on the figures in the report of the Franchise Committee, according to which the depressed classes numbered over 41 millions. We have since reexamined the Franchise Committee's figures and we are satisfied that their classification, which is based on a religious and social distinction and thus appears to include all persons who are ordinarily not allowed to enter the interior of Hindu temples does

not correspond except in Madras to the economic and political facts. On this point all local Governments are in agreement with us. In provinces other than Madras, while the conditions of the various low caste communities who are classed under one head in the census tables, doubtless vary and in some cases may fairly be regarded as depressed, there is no large and clearly defined section of the population, comparable to the "submerged tenth" of European cities, for the safeguarding of whose interests special representation is necessary. Many of these castes are fairly prosperous and sturdy communities by no means incapable of looking after themselves. In Madras the position is different. Here there are certain communities whose status and power of self-protection is so low that special provision must be made on their behalf. The Madras Government had originally contemplated reserving 10 seats for these classes and for certain other classes who may properly be described as backward rather than as depressed. It was subsequently represented to them, however, during the course of discussions with non-official members of the Legislative Council that it would be desirable to specify separately the number of seats to be allotted respectively to these two classes. It is difficult to make a list of the castes which should be ranked as backward, and on further consideration the local Government accepted the view that in order to avoid the possibility of the claims of the low-caste Hindus to special representation being merged in those of the backward minorities, it would be better to allot a specific number of seats for the representation of the depressed classes in the more restricted and accurate sense of the term. For this section of the population which includes 6½ million persons and comprises the following communities, namely, Paraiyans, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans, Cherumans, and Holeyas, the Madras Government in agreement with their advisory committee propose to reserve 5 seats, a number which we regard as adequate. For the representation of the backward castes and minorities no specific seats will be reserved; but it will be possible to provide for their representation from the seats reserved generally for nomination, which with this object we have decided to increase from 17 to 19. In Bombay, the depressed classes are estimated to amount to only 3 per cent. of the population, and the local Government considers that it is unnecessary to add to the one seat recommended by the Southborough Committee. In Bihar and Orissa the local Government propose to add two seats, one for the depressed classes and one for the aborigines. In the Punjab no special representation is thought to be required. In the Central Provinces the number of seats reserved will be raised from 1 to 2. The Government of the United Provinces reports that outside the criminal tribes there are practically no depressed classes, and that non-official opinion is opposed to any increase in the representation recommended by the Southborough Committee. The Government of Bengal are of opinion that the problem of the special protection of these classes is not acute in Bengal and that the larger communities to whom the term is often applied, such as the Namasud-

ras, have some expectation of securing representation through the general electorates. They consider accordingly that the one nominated seat recommended by the Southborough Committee will suffice. The Chief Commissioner of Assam reports that there are no depressed classes in Assam. In the case of all these provinces the views of the local Governments are in accordance with those of their advisory Committees and we have had no hesitation in accepting them."

The Reforms Enquiry Committee.

25. The members of the Reforms Enquiry Committee were agreed that the existing representation of these classes was inadequate but were not agreed as to the method by which further representation could be granted. The Majority considered that resort should be had to nomination. The Minority looked to a general lowering of the franchise, but suggested special constituencies for the next few years.

As in the case of labour, the local Governments were consulted. All pronounced against the possibility of a system of election. Only Madras, Bombay and the Central Provinces recommended an increase of representation. The recommendations of the local Governments were accepted, and the existing representation of the depressed classes on the provincial councils is now as follows:—

Madras	10
Bombay	2
Bengal	1
United Provinces	1
Punjab	0
Bihar and Orissa	2
Burma	0
Central Provinces	4
Assam	0
	20

Representation of the depressed classes in future.

26. There can be little doubt that in some provinces at least the position of the depressed classes is so peculiar that their representation must be fully secured. Whether that can be done by fixing a suitable pitch of general electoral qualifications and adjusting territorial constituencies, or whether recourse must be had to special constituencies or nomination are questions whose discussion by the Government of India at present would be premature. Representation in the Legislative Assembly is a less important matter, unless there is a radical alteration in the classification of provincial and central functions and the protection and welfare of this and other minorities become more definitely the concern of the central Government and Legislature.

THE ACTION TAKEN UPON THE RECOMMENDATIONS MADE IN THE REFORMS ENQUIRY COMMITTEE'S REPORT.

The action taken upon the recommendations made in the Reforms Enquiry Committee's Report.

Preliminary Note.

The Reforms Enquiry Committee's Report consists of two documents, the Majority Report signed by the Hon'ble Sir Alexander Muddiman, the Hon'ble Sir Muhammad Shafi, the Maharajadhiraja Sir Bijoy Chand Mahtab Bahadur of Burdwan, the Hon'ble Sir Arthur Froom and Sir Henry Moncrieff-Smith; and the Minority Report signed by Sir Tej Bahadur Sapru, Sir Sivaswami Aiyer, Mr. Jinnah and Dr. Paranjpye. The Majority made forty-six separate recommendations, of which a summary is given in pages 106 to 114 of the Report. The Minority took the view that Dyarchy had failed and observed that they did not think that the amendments suggested by the Majority in their Report would afford valuable training towards responsible government, or would provide any solution of difficulties which the Minority discussed in their chapter on political conditions, or that they would strengthen the position of the Provincial Governments in relation to their legislatures or of the Central Government in relation to the Assembly. They suggested that the question at issue was whether the constitution should not be put on a permanent basis, with provisions for automatic progress in the future. They did however express views on most of the detailed recommendations made by the Majority, and in their remarks under head (3) on page 188 themselves made a definite recommendation for the deletion of the words " or interests " in section 67B of the Government of India Act.

The arrangement of the material in this memorandum.

2. The material in this memorandum is arranged as follows. First there is given an abstract summary of the action taken on each of the recommendations of the Majority following the same serial order as that adopted in pages 106 to 114 of the Report. Each recommendation is then separately stated, and the action taken upon it discussed. No action was taken upon the suggestion of the Minority for the deletion of the words " or interests " from section 67B of the Government of India Act.

Abstract of the action taken upon each of the recommendations made by the majority of the Reforms Enquiry Committee.

Recommendation No. 1.—The position remains unchanged.

Recommendation No. 2.—Not accepted.

Recommendation No. 3.—Not accepted.

Recommendation No. 4.—Reserved for consideration by the Statutory Commission.

Recommendation No. 5.—Accepted. Parliamentary legislation to amend sections 63E and 80B of the Act is awaited.

Recommendation No. 6.—An official motion to give effect to this recommendation was adopted by the Council of State on the 16th September 1925. A motion in the same terms was twice moved and twice adjourned in the second Assembly. It has not since been moved in the present Assembly.

Recommendation No. 7.—There has been a separation of railway from general finance, but no change has yet been made in the date from which the railway year should begin for budget purposes.

Recommendation No. 8.—Accepted, and the Electoral Rules amended on the 26th April 1926.

Recommendation No. 9.—Accepted, and the Electoral Rules amended on the 26th April 1926.

Recommendation No. 10.—In view of the present constitution of the Assembly it has been decided to take no present action on this recommendation which would involve an amendment of the statute.

Recommendation No. 11.—Accepted so far as it relates to particular Bills, and not to particular classes of Bills. Parliamentary legislation to amend section 63A and section 63B is awaited.

Recommendation No. 12.—Accepted, and the Electoral Rules amended on the 23rd January 1925.

Recommendation No. 13.—Accepted. The Legislative Members Exemption Act, 1925 (Act XXIII of 1925).

Recommendation No. 14.—Accepted by the Government of India, but a Bill described as the Legislative Bodies Corrupt Practices Bill, designed to give effect to the recommendation lapsed when the second Assembly was dissolved, and has not since been introduced in the present Assembly.

Recommendation No. 15.—It has been decided to take no action on this recommendation pending the present enquiry of the Statutory Commission.

Recommendation No. 16.—It has been decided that no amendment should be made either in Devolution Rule 10 or in the Instrument of Instructions or elsewhere for the purpose of giving effect to this recommendation.

Recommendation No. 17.—Accepted. Parliamentary legislation to amend section 52 is awaited.

Recommendation No. 18.—It has been decided to take no action on this recommendation pending the present enquiry of the Statutory Commission.

Recommendation No. 19.—Accepted. The Legislative Council Rules were amended on the 27th October 1926.

Recommendation No. 20—

(*a*) It has been decided to take no action on this part of the recommendation pending the present enquiry of the Statutory Commission.

(*b*) This part of the recommendation is substantially met by the rules in force in several provinces.

Recommendation No. 21.—Accepted. The Transferred Subjects (Temporary Administration) Rules were amended on the 29th April 1926.

Recommendation No. 22.—Accepted. Parliamentary legislation to amend section 52 is awaited.

Recommendation No. 23—

(*a*) Accepted. Schedule II to the Devolution Rules was amended on the 29th April 1926.

(*b*) It has been decided to take no action on this recommendation pending the present enquiry by the Statutory Commission.

(*c*) Accepted. Schedule II to the Devolution Rules was amended on the 29th April 1926.

(*d*) Not accepted.

Recommendation No. 24—

(*a*) Partially accepted. Schedule II to the Devolution Rules was amended on the 16th July 1926.

(*b*) Not accepted.

(*c*) Accepted by rules notified on the 7th January 1926.

(*d*) Not accepted.

Recommendation No. 25.—A formal recommendation upon which no action has yet been taken.

Recommendation No. 26.—Accepted. Parliamentary legislation to amend section 80-A is awaited.

Recommendation No. 27.—(1) and (11) accepted. Part II of Schedule I and Schedule II to the Devolution Rules were amended on the 28th April 1926.

Recommendation No. 28.—It was found on examination that no amendment of the Legislative Rules was necessary to give effect to this recommendation, which is covered by the existing law.

Recommendation No. 29.—Partially accepted. Parliamentary legislation to amend sections 67 and 81A is awaited.

Recommendation No. 30—

(*a*) and (*b*) Accepted. The Legislative Council Rules were amended on the 27th October 1926.

(*c*) Awaits the amendment of section 52.

Recommendation No. 31.—Accepted. The Indian Legislative Rules and the Provincial Legislative Council Rules were amended on the 27th April 1926.

Recommendation No. 32.—Accepted. The Electoral Rules were amended on the 29th April 1926.

Recommendation No. 33.—Accepted in a modified form. The Electoral Rules were amended on the 8th July 1926.

Recommendation No. 34.—By notifications dated the 9th August 1926 eight more seats for the depressed classes were provided by nomination distributed between Madras, Bombay, and the Central Provinces.

Recommendation No. 35.—By notifications dated the 9th August 1926 four more seats for labour were provided by nomination distributed between Bombay, the Punjab and the Central Provinces.

Recommendation No. 36.—The present position in regard to the Meston Settlement is explained in a memorandum separately presented to the Commission.

Recommendation No. 37.—The principle approved by the Government of India, and local Governments recommended to give effect to it to the fullest extent possible.

Recommendation No. 38.—Accepted. The Devolution Rules were amended on the 15th July 1926.

Recommendation No. 39.—Accepted. The Devolution Rules were amended on the 15th July 1926.

Recommendation No. 40.—Not accepted.

Recommendation No. 41.—The principle endorsed by the Government of India and the local Governments informed to that effect.

Recommendation No. 42.—No action was found necessary on this recommendation.

Recommendation No. 43.—A memorandum describing the position in the matter of the separation of accounts from audit has been separately presented to the Commission.

Recommendations Nos. 44, 45 and 46.—These recommendations are in general terms. A memorandum on the position of the Services has been separately presented to the Commission.

THE SECRETARY OF STATE.

1. The control of the Secretary of State and of the Secretary of State in Council over the official governments in India in cases affecting purely Indian interests should be relaxed and efforts should be directed towards establishing a practice in this respect. (Paragraph 123).

The comments made by the Minority on this recommendation will be found under heads (26) and (27) at pages 191 and 192, which should be read with Chapter IX of the Minority Report.

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1. The difference between the Majority and the Minority was briefly to the following effect. The Majority considered that, even if the constitutional powers of the Secretary of State were, as they must be, retained unimpaired, it was still possible for his control to be relaxed, either as a result of conventions somewhat on the lines of the Fiscal Convention, or in the practice of administration, by abstention on his part from interference, in cases affecting purely Indian interests. In finance and service matters, the Majority considered that such abstention might be confirmed by a definite delegation of powers by rule. The Majority held that the relaxation of control on these lines would supply a most important channel for constitutional advance within the scope of the Act.

The Minority were rather more sceptical, and took the view that consistently with the Secretary of State's responsibility to Parliament, any divestment of his powers of control over central or over provincial reserved subjects was out of the question, and any relaxation of their use by definite delegations of power by rule must be of a very limited character. The Minority recognised the difficulty of defining "purely Indian interests"; and, in short, they were of opinion that, within the scope of the Act, to which they were bound by their terms of reference, there was little or no room for any material alteration in the exercise by the Secretary of State of his powers of control and that any modifications which might be made, whether by convention or otherwise, would necessarily fall very far short of being in any sense a genuine constitutional advance.

2. Though based upon remarks made by the Joint Select Committee on clause 33 of the Government of India Bill, the recommendation of the Majority, did not expressly include any criterion of agreement between the executive government in India and their legislatures as the basis for delegation or control, and their recommendation appears to have been mainly directed towards those powers of the executive governments which would probably come only rarely before the legislature. Any extended application of the principle referred to in the Joint Select Committee's comments

on clause 33, omitting agreement between the executive and the legislature would involve obvious constitutional difficulty, while the Secretary of State remains responsible to Parliament and so long as the Central Government remains without constitutional responsibility within India. The difference between matters in which the legislatures were concerned and those which would not come before the legislatures at all is therefore fundamental.

In matters in which the legislatures are concerned, the Majority may be assumed not to have intended to proceed beyond the principle expressed in the remarks of the Joint Select Committee of Parliament on clause 33 of the Government of India Bill, which they themselves cited; but further steps in the direction of establishing conventions similar to the Fiscal Convention are hampered, in the first place, by the difficulty, mentioned by the Minority, of defining the term " purely Indian interests ", and, secondly, by the difficulty of arriving at a suitable definition of " agreement between the legislature and the executive ". For example, it might not be appropriate to regard the legislature and the executive as being in agreement when the latter accepts a resolution of the former for reason for general policy, although objecting to it on its merits.

In matters which would not come before the legislature, the most that can be expected under the present constitution is that there should be no interference by the Secretary of State in the details of administration, and that in larger matters in which he cannot expect that Parliament would allow him to delegate his authority or divest himself of his responsibility, the exercise of his powers to superintend, direct and control, should be made with full consideration for the letter and the spirit of the preamble to the Government of India Act.

3. In the light of these considerations, the recommendation of the Majority is seen to raise issues of very varying importance, and to suggest action of three different kinds.

The constitutional implications in the case of matters coming before the Legislature have prevented the Government of India from seeking to establish any convention, other than the Fiscal Convention, based on concurrence of authorities in India.

In other matters, in regard to financial administration, the suggestion of the Committee for delegation of powers by rule has not been pursued; but in regard to service matters, in a separate connection, those delegations have been carried out to which reference is made in the memorandum on the services separately presented to the Commission.

The further suggestion that in other matters of administration a practice of non-interference by the Secretary of State in affairs of purely Indian interest was recognised by the Committee themselves as raising difficulties of definition. The problem is largely one of administrative convenience, and has been examined in that light. But no definite suggestions have been made to the Secretary of State.

THE GOVERNMENT OF INDIA.

THE EXECUTIVE.

2. The Governor-General and the other high officials mentioned in sub-section (1) of section 110 of the Government of India Act should be exempt from the jurisdiction of all courts and not merely from the original jurisdiction of the High Courts. (Paragraph 91).

This recommendation was supported by the Minority—*vide* head (30) at page 192.

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1. The Majority stated that their reason for making this recommendation was that if the immunity enjoyed by the Governor General and other high officials is to be maintained, it should be made complete, and the jurisdiction of all Courts should be barred in respect of the matters. The recommendation was one of a number of recommendations arrived at as a result of an examination of the subject of powers, privileges and immunities by a sub-committee consisting of Sir Muhammad Shafi, Sir Tej Bahadur Sapru, Sir Henry Moncrieff-Smith and Mr. Jinnah. The recommendation of the sub-committee was unanimous.

2. As the Committee recognised, their suggestion involves an amendment of section 110 of the Government of India Act, and it may be useful in the first place to indicate the earlier history of the statutory provision now expressed in that section. The origin of that part of section 110 which relates to civil jurisdiction is to be found in the conflict between the Executive Government and the Supreme Court at Calcutta between the years 1773 and 1780 in the course of which the Court, by the issue of process of various kinds, brought the machinery of the Government to something like a deadlock. In 1916 the provision in the law was amended without objection so as to cover Lieutenant-Governors and the Members of their Executive Councils.

The draft Government of India Bill, 1919, contained provision to extend to Ministers the protection afforded by section 110. This extension to Ministers was questioned in the House of Lords by Lord Sydenham who relied upon the authority of Professor Berriedale Keith who had written a letter to the *Times* (published the 1st December 1919) voicing his objections: Sir Edward Chamier had replied to Professor Keith's arguments, but Professor Keith maintained his objections. In the appendix attached a copy is given of this correspondence. In the House of Lords Professor Keith's argument that it is an essential principle where responsible Government is introduced that every Minister should be amenable to the Law Courts for his actions was employed by Lord Sydenham who described the suggested protection as unconstitutional. In reply Lord Sinha stated that the objections appeared to him to be

based on a misapprehension. He explained the earlier history of section 110 and drew attention to the fact that the Supreme Court existed only in Calcutta, Bombay and Madras, and is now reprsented by the original jurisdiction of those three High Courts only. The exemption given to high officials protected by section 110 was merely that they should not be liable to be arrested or imprisoned under the original jurisdiction of those three High Courts. An Indian Minister should not be denied the very limited exemption enjoyed by Indian Members of an Executive Council. Lord Sydenham's amendment was negatived without a division.

3. Though it can be argued that the present position is anomalous in that the immunity conferred applies only to the original jurisdiction of the High Courts of judicature, it was felt that it would not be an easy proposition to defend that because it was found necessary, for reasons which have now little more than historical interest, early in the latter half of the 18th century to exempt the Governor-General and his Council from the jurisdiction of the Supreme Court, and because logic has from time to time demanded the extension of an analogous privilege to certain other high officials as their posts were created, it is therefore necessary now to alter the whole character of the judicial exemption which is conferred by a section which might be described as a relic of the historic past.

On these grounds this recommendation has not been accepted.

APPENDIX TO THE NOTE ON RECOMMENDATION NO. 2.

The "Times", Monday, December 1, 1919.

INDIAN REFORM.

MINISTERS AND THE COURTS.

To

The Editor of the "Times".

SIR,

While the House of Commons cannot be expected to undertake a general revision of the Government of India Bill as reported from the Joint Select Committee, there is one point of the highest constitutional importance, which, banished as it is to the seclusion of an amendment in Part II of Schedule III of the Bill, seems to have escaped consideration by the Committee, though attention was called to it in my Minority Report on the Home Administration of Indian Affairs (Cmd. 207, P. 56).

Under this amendment to section 110 of the Government of India Act, 1915, there is conferred on Ministers appointed under the new measure absolute immunity from "the original jurisdiction of any High Court by reason of anything counselled, ordered, or done by any of them in his public capacity only", and from "the original Criminal Jurisdiction of any High Court in respect of any offence not being treason or felony". I cannot believe that the Members of the Select Committee, or of the House of Commons, can really contemplate so grave a violation of the rule of law, which is the indispensible basis of responsible or representative Government or that, if they understood the question, they would consent thus to negative the right, whether of Indian or of European British subjects, to resort to the Court in respect of illegal acts ordered by Ministers.

Presumably the proposal is made because members of executive Councils, as well as Governors and Lieutenant-Governors, are accorded this exemption. Without discussing whether this state of affairs is justifiable, it must be pointed out that the position of Ministers and that of Executive Councillors is totally different. Not only are the latter under strict official supervision and control, but they are subject to proceedings for oppression or breach of duty in the High Court of England; an Indian Minister will, indeed, be subject to the same liability, but whereas a European Civil servant is normally certain to become liable to that jurisdiction by returning to England, an Indian Minister will have no inducement ever to bring himself within the sphere of operation of the High Court.

Nothing, I think, can be more fatal to the orderly development of responsible Government in India than the divorce of Ministerial

power from legal responsibility, and I venture to hope that I may have your support in calling attention to this defect in the Bill with a view to the deletion of the proposed addition to section 110 of the Act of 1915.

I am,

SIR,

Your obedient servant,

A. BERRIEDALE KEITH.

The University,
Edinburgh,
November 28.

The "Times", Wednesday, December 3, 1919.

INDIAN REFORM.

MINISTERS AND THE COURTS.

To

The Editor of the "Times".

SIR,

In your issue of to-day Professor A. B. Keith calls attention to the amendment of section 110 of the Government of India Act, 1915, proposed by the Bill which is now before Parliament. He describes the point as one of the highest constitutional importance, and suggests that the amendment will negative the right of subjects of the Crown to resort to the Courts in respect of illegal acts ordered by Ministers.

The scope of section 110 is much more limited than would at first sight appear.

As regards criminal jurisdiction, it leaves untouched the jurisdiction of the High Court in all cases of treason or felony. It also leaves untouched the jurisdiction of magistrates who try what are called in English law misdemeanours. Nor does it touch the criminal appellate jurisdiction of any High Court. It refers only to the original criminal jurisdiction of a High Court established by letters patent, and therefore leaves untouched the jurisdiction of Courts of Session in the Muffasil, which except in the case of European British subjects, have power to try all offences, however serious, including what are known in England as felonies. It is unlikely that any Ministers will be Europeans.

The origin of that part of section 110 which relates to civil jurisdiction is to be found in the conflicts between the Executive Government and the Supreme Court at Calcutta between 1773 and 1780, in the course of which the Court, by the issue of processes of various kinds, brought the machinery of the Government to something like

a deadlock. Of the six High Courts in India, only three have ordinary original civil jurisdiction. The remaining three and the High Courts not established by letters patent, can try ordinary original civil suits only when they are transferred from other Courts. The section certainly prevents the High Courts in the three Presidency towns from entertaining suits and issuing writs, injunctions, etc., against certain high officials in certain cases, but during a period of about 140 years no serious inconvenience appears to have resulted from the provisions of the section, and so recently as 1916 it was amended without objection so as to cover Lieutenant-Governors and the members of their Executive Councils.

Professor Keith suggests that the amendment will place Ministers in a more favourable position than members of Executive Councils, but in view of the provision of section 127 (which is too long to quote here), I venture to think that that is not so.

I suggest that it would be unwise to eliminate at this stage a provision which does no more than place Ministers and members of Executive Councils in the same position as regards amenability to the Courts.

I am,

SIR,

Your obedient servant,

E. CHAMIER.

India Office,

December, 1.

The "Times", Monday, December 8, 1919.

THE GOVERNMENT OF INDIA BILL.

MINISTERS AND IMMUNITY.

To

The Editor of the "Times".

SIR,

That the India Office should defend, as is done in your issue of yesterday, the draftsmanship which extends in the Government of India Bill to Ministers immunities granted to the Governor-General, Governors, Lieutenant-Governors, and Executive Councillors is natural but Sir E. Chamier's reply to my criticism reveals how far he is from comprehending the vital character of the change in the Government of India brought about by Mr. Montagu's Bill.

In this country and in the self-governing Dominions it is an essential principle that every Minister is amenable to the Law Courts for his actions, and it is owing to this admirable principle that British subjects in these countries are secure in person and property against Ministerial wrongdoing. When the office of Minister is

created in India, every consideration of precedent and principle demands that he should, as regards the Courts, be placed in the same position as every other holder of Ministerial office in the British Empire. Instead of this, the Bill places Ministers in the position of freedom from control which was first granted to Warren Hastings. Comment on such a proposal in 1919 seems needless.

But, I must repeat, Ministers will be even better off than Warren Hastings, who desired to return to England, and so brought himself within risk of retribution, and than Executive Councillors, who if European, suffer from the same disability. In the case of Ministers the safeguards of (1) control by official superiors and ultimately Parliament and (2) possibility of action in the High Court of England are non-existent; the proposed extension of immunity to Ministers is therefore wholly unjustifiable, and is explicable only on the theory that it slipped in, as I apprehend was the case, as a consequential amendment which unhappily the India Office is not now willing to disavow.

I am,

SIR,

Your obedient servant,

A. BERRIEDALE KEITH.

The University,
Edinburgh,
December, 4.

THE GOVERNMENT OF INDIA.

The Executive.

3. The powers of the Governor-General in Council to secure by a declaration that the development of a particular industry shall be a central subject should be modified so as to relax the existing restriction and allow the power to be exercised with the concurrence of the local Government or Governments concerned. (Paragraph 95).

No remarks by the Minority.

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1. It was felt that this recommendation, if accepted, would cause difficulty, should any local Government not agree in a declaration proposed to be made by the Governor-General in Council. For example, if it were decided to give bounties to encourage the production of a particular material, the development of such production must be made a central subject before bounties can be given. If any local Government objected to the declaration, after the proposed amendment had been made, then the subject could not be made a central subject so far as that province is concerned, and accordingly the whole object of the declaration might be defeated. The Committee apparently assumed that the amendment would be in furtherance of provincialisation, but it clearly could have little influence in that respect.

2. In view of these considerations this recommendation has not been accepted.

4. The Courts should be barred from premature interference with the Presidents of the two Chambers in regard to action proposed to be taken in either Chamber. The recommendation applies to the Presidents of the Legislative Councils also. (Paragraph 91).

The Minority did not object, *vide* head (30) at page 192.

This recommendation is supported by the Government of India, and its scope extended, but as the matter raised is one of some constitutional importance it has been reserved for consideration by the Statutory Commission to whom a separate memorandum on the subject has been presented.

THE GOVERNMENT OF INDIA.

The Indian Legislature.

5. The elected President of the Legislative Assembly should not be required to vacate his seat as a member of the Assembly on his acceptance of that office. The recommendation extends to the elected Deputy President of the Assembly, to elected Presidents and Deputy Presidents of the provincial councils and also to Council Secretaries. (Paragraph 76).

The Minority have no objection, *vide* head (10) at page 189.

This recommendation has been accepted by the Government of India, and the Secretary of State has agreed that Parliamentary legislation to give effect to it by the amendment of sections 63-E. and 80-B. of the Act may be undertaken at a convenient opportunity.

THE GOVERNMENT OF INDIA.

The Indian Legislature.

6. Bills affecting Hindu or Muhammadan law should be referred, after leave for introduction has been given, to two standing committees. The members of the standing committee should consist mainly of members of the communities concerned, but should include experts in Hindu or Muhammadan law, as the case may be, and also representatives both of the reforming and of the orthodox sections of the two communities. They should be appointed by a Committee of Selection. Before any arrangements are made on these lines, the two chambers of the Indian Legislature should, however, be consulted. (Paragraph 120).

The Minority (page 193) appreciated the importance of the subject; but thought that section 67 (2) provides sufficient safeguards at present. They recognised that it is not easy at all times to draw a sharp line between social and religious usages; and understood the spirit of caution which led the Majority to recommend the appointment of Standing Committees, but did not feel justified in committing themselves more particularly because they thought the subject had been sifted in the manner in which it might have been. They thought that the importance of the subject should be borne in mind when the Constitution is revised.

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1. On the 16th September 1925 the Home Secretary on behalf of the Government of India moved the following resolution in the Council of State:—

> "This Council recommends to the Governor-General in Council that in order to give effect to the recommendation in paragraph 120 of the report of the Reforms Enquiry Committee the Indian Legislative Rules and the Standing Orders of this House be amended so as to provide as follows:—
>
> "(*a*) Two Standing Committees one to deal with Bills relating to Hindu law and the other with Bills relating to Muhammadan law shall be appointed;"
>
> "(*b*) appointments to these Committees shall be made by a Committee of Selection the members of which shall be appointed at one of the first meetings of the Council to be held in each year and should hold office for one year from the date of nomination;"
>
> "(*c*) the Committee of Selection shall consist of the President, and the Leader of the House supplemented up to a total number of six members on a motion moved by the Leader of the House so as to represent the main divisions of opinion in this House;"

"(*d*) the Standing Committee for Bills relating to Hindu law shall consist of the Hon'ble the Home Member, the Hon'ble the Law Member, if they are members of the Council, and 15 Hindu members nominated by the Committee of Selection so as to include persons well versed in Hindu law and representatives both of the orthodox and reforming sections of the Hindu Community;"

"(*e*) the constitution of the Standing Committee for Muhammadan law shall be similar to that of the Committee on Hindu law, except for the substitution of 10 Muhammadan members for the 15 Hindu members;"

"(*f*) the members of each Standing Committee shall hold office for one year, but may be re-nominated by the Committee of Selection in successive years;"

"(*g*) a Bill which has been referred to the Standing or a special Select Committee in one House shall not be referred to the Standing Committee or a Special Select Committee in the other House;"

"(*h*) as soon as leave is given to introduce a Bill other than a Government Bill, and subject to paragraph (*g*) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of the House, if the Bill is certified by the President to relate to Hindu or Muhammadan law, it shall be referred to the Standing Committee concerned without further motion;"

"(*i*) the Standing Committee shall have power to examine witnesses and to circulate a Bill, but when it directs circulation the fact shall be reported to the Council;"

"(*j*) the further procedure in the Council after the report of the Standing Committee has been received shall be the same as the procedure on receipt of the report of a Select Committee."

Some objection was raised to the creation of what were described as communal departments in the legislature; the omission of Government bills from the scope of clause (*h*) was critised; but on an assurance being given that all suggestions in matters of detail would be considered, the motion was adopted without a division.

2. A motion in the same terms was moved by the Home Member in the Legislative Assembly on the 17th September 1925, but was adjourned till the next session on an amendment moved by Diwan Bahadur M. Ramachandra Rao. It was again moved on the 18th August 1926, and again adjourned on an amendment moved by Mr. M. A. Jinnah who wished the matter to stand over for the new Assembly. The motion has not since been moved in the new Assembly.

THE GOVERNMENT OF INDIA.

The Indian Legislature.

7. Power should be taken to enable the Government of India to prescribe the date on which the railway year shall begin for budget purposes, and also to present the railway budget separately from the general budget. (Paragraph 121).

The Minority made no recommendation as they thought that the matter required further examination—*vide* head (25) at page 191.

No decision has yet been reached with regard to the first part of this recommendation. The change suggested in the second part of the recommendation has been effected. Reference on this point is invited to the comments in paragraph 13 of the Sketch of the Operation of the Constitution in the Central Government on the subject of the separation by convention of railway and general finance.

8. The bar against women being registered as electors for the Delhi and Ajmer-Merwara constituencies should be removable by the passing of a resolution after due notice in the Assembly. (Paragraph 66).

9. The bar against women being elected or nominated members of either chamber of the Indian legislature or of the Provincial Councils should be removable by the passing of resolutions after due notice in the Chambers and the Councils. (Paragraph 67).

The Minority wished to go further and recommended the enfranchisement of women by rules, and also that they should have a right to stand for election—*vide* head 4 (*d*) at page 188.

The Majority considered that in the matter of women's franchise it would be desirable to adhere to the opinion expressed by the Joint Select Committee of Parliament on clause (7) of the Government of India Bill of 1919 that the admission of women to the franchise should be settled in accordance with the wishes of Indians themselves as constitutionally expressed, that is to say, by resolution passed in the legislatures. In their comments on the draft electoral rules they stated that they thought it desirable to safeguard their original intention that the decision for each province should rest with the provincial legislature, and accordingly amended the draft rules to provide that a resolution of either Chamber of the Indian legislature in favour of enfranching women as voters for that Chamber shall have effect in a province only if the province has itself already taken this step for its own Council.

Delhi and Ajmer-Merwara are represented by one seat each in the Legislative Assembly, but neither possesses a provincial Legislative Council. Hence recommendation No. 8 of the Reforms Enquiry Committee.

2. In the matter of the eligibility of women to sit as members of the various legislative bodies, the Majority considered that it would be in conformity with the dictum of the Joint Select Committee of Parliament to leave the decision to the legislatures and to provide in the Electoral Rules of each Provincial Council for the removal by resolution of the disqualification, and in the Electoral Rules of each Chamber of the Indian Legislature for the removal of the disqualification for a constituency in a province in which sex is not a disqualification for such membership.

3. The Government of India accepted recommendations 8 and 9 of the Majority of the Committee, and, with the sanction of the Secretary of State, the Electoral Rules were amended accordingly by notifications dated the 26th April 1926.

THE GOVERNMENT OF INDIA.

The Indian Legislature.

10. Special representation for factory labourers in the Legislative Assembly should be provided for, if local Governments can make arrangements, by election, if not by nomination. (Paragraph 64).

Provincial Legislatures.

34. The representation of the depressed classes in the provincial Councils should be increased, and the local Governments should be asked to formulate proposals. The representation should be by election if local Governments are prepared to recommend a system of election. (Paragraph 64).

35. The representation of factory labourers in the provincial councils should be increased, and the local Governments should be asked to formulate proposals. The representation should be by election if possible. (Paragraph 64).

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1. It will be convenient to group these three recommendations together for the purpose of discussing the action taken on them.

In paragraph 63 of their report the Majority stated that they were unable to recommend any general modification of the franchise in either direction, either by extension or restriction. They affirmed the principle that the franchise should be as low as possible, provided that the electors have a proper appreciation of their duties and responsibilities in its exercise; but stated that the capacity of the elector was at present, so they believed, mainly confined to a capacity to choose between the personal qualities of two or more candidates. If that was so, then the Majority considered that there could be no doubt that a general widening of the franchise, not accompanied by a corresponding increase in the number of seats would enhance the difficulty, because it would largely decrease the proportion of the electors acquainted with any of the candidates; for that reason they were not prepared to recommend any great increase in the number of seats in the various legislative bodies.

To this general proposition they made certain exceptions, which they discussed in paragraph 64, in favour of the increased representation (*a*) of factory labour and (*b*) of the depressed classes. The Majority expressed their views in general terms, but made no precise recommendations as to the additional representation which should be granted, since they considered that each local Government should be asked to formulate proposals.

2. The Minority discussed the franchise in Chapter VIII of their report and expressed the opinion that in every province the

franchise should be carefully examined, and, wherever it admits of lowering, it should be lowered so as to secure the enfranchisement of a substantally large number of people.

With reference to the representation of the depressed and working classes they stated that the correct principle to follow would be to lower the franchise so as to give them a chance through the open door of election in general electorates; but where practical considerations pointed to a different conclusion, they suggested that for the next few years only special constituencies might be formed for them. The Minority cited the opinion of their colleague, Dr. Paranjpye, that it should not be difficult to secure the representation of the depressed and working classes in the Bombay Presidency by election from three or four districts.

Similarly as regards factory labour the Minority favoured their representation by election. They thought that, though still disorganized, labour was showing distinct signs of beginning to organise itself in urban areas.

3. The views both of the Majority and of the Minority were referred to the provincial Governments and the whole question of the representation of factory labour and of the depressed classes was brought under careful examination. It will be noticed that the Majority opposed a general extension of the franchise, and gave prominence to opinions that the existing electorates are inexperienced, if not irresponsible. The Minority were reluctant to form special electorates and asserted the principle that the depressed and working classes should be given their chance through the open door of election by a widening of the general electorate. Both sections of the Committee were prepared, in favour of the depressed classes and factory labourers, to abandon these general propositions; but neither section advanced any reason for making an exception to their principles save their belief that the need for further representation of these classes is generally recognised. There is no clear line of distinction between the castes which could be defined as depressed and other castes of the agricultural community which are almost equally backward and of which very few members have votes, and it has been urged that politically the depressed classes are part of the greater body of agricultural tenants and labourers, already represented in the general electorates. Similar difficulty might be met in attempting to define factory labourers in a country where those who work in factories still retain their connection with the land. At the same time while factory workers are unorganised and still little differentiated in aim or outlook from the general population, it would be difficult to justify the creation of any artificial means of enabling them to provide themselves with representatives of their own in the legislatures.

By reason of the difficulties involved the local Governments were unanimous against giving either labour or the depressed classes increased representation by election. As a result of the examina-

tion made of the question an addition was made of the following numbers of nominated seats in the Legislative Councils named—

Council.	*Additional seats for* Labour.	Depressed classes.
Madras	...	5
Bombay	2	1
Punjab	1	...
Central Provinces	1	2
	4	8

With these additions, adopted by notifications issued on the 9th August 1926, the present provision for the representation by nomination of labour and depressed classes in the various Councils stands as follows:—

Council.	*Seats for* Labour.	Depressed classes.
Madras	...	10
Bombay	3	2
Bengal	2	1
United Provinces	...	1
Punjab	1	...
Bihar and Orissa	1	2
Burma	1	...
Central Provinces	1	4
Assam	1	...
	10	20

In the Legislative Assembly, until the elected seats were increased, the number of nominated members could not be increased above the existing figure. This in itself was sufficient to prevent action being taken to obtain increased representation for labour in the Assembly by nomination.

THE GOVERNMENT OF INDIA.

The Indian Legislature.

11. The Governor-Generals should have power to nominate persons whether officials or non-officials to be members of either Chamber of the Indian Legislature as experts for particular bills or particular classes of bills. (Paragraphs 73 and 120).

The Minority did not specifically refer to this recommendation of the Majority, but in their remarks under head (9) at page 189 they objected to the retention of the official bloc, and in their remarks under head (34) at page 193 they stated that they entirely disapprove the principle of nomination of non-officials except for specified minorities in whose case it is difficult to constitute electorates. The Minority may be understood therefore not to have supported this recommendation.

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1. The Government of India have accepted the Committee's recommendation so far as it relates to the nomination of experts for particular Bills, but not in regard to the nomination of experts for particular classes of Bills. There seemed good ground for the belief expressed by the Committee that provision for the nomination of experts for particular Bills in the Central Legislature had been omitted by oversight, since such power was possessed in regard to the old Legislative Councils and was conferred by the Act of 1919 in the case of Governors' Legislative Councils. Without the amendment suggested by the Committee the Government of India could not provide for the presence of non-official experts, and for official experts they could do so only by arranging for the frequent resignations of certain official members of the Central Legislature and the appointment of experts in their places. This course brought the official bloc into undesirable prominence, as the expert officer appointed to be a member of the legislative body concerned for a particular Bill must then be a member for all purposes with consequential dislocation of his normal work during the sitting of the legislature.

2. The second part of the Committee's proposals for the appointment of experts for particular classes of Bills was made in connection with their recommendation No. 6. It seemed to the Government of India to be an unnecessary refinement to have separate provisions for the nomination of experts for Bills and for classes of Bills, and that it would be sufficient to take power to appoint one expert for any particular Bill in the Council of State and not more than two experts for any particular Bill in the Legislative Assembly.

3. The Secretary of State has agreed to undertake Parliamentary legislation to amend sub-section (1) of section 63-A and sub-section (2) of section 63-B to give effect to this suggestion when a convenient opportunity presents itself.

THE GOVERNMENT OF INDIA.

The Indian Legislatures.

12. The existing disqualification from being a member of either Chamber of the Indian Legislature, or of a provincial Council, which follows from a conviction by a criminal court should be modified—

(1) by increasing the period of sentence which constitutes a disqualification from six months to one year; and

(2) by enabling it to be removed, subject to provisions to secure uniformity by orders of the local Government instead of only by pardon. (Paragraph 72).

The Minority (head 32, page 193) had no objection.

This recommendation was accepted by the Government of India and the necessary changes were made in the Electoral Rules by notifications dated the 23rd January 1925.

THE GOVERNMENT OF INDIA.

The Indian Legislature.

13. Members of all the legislative bodies constituted under the Act should be exempted from—

(1) serving as jurors or assessors, and

(2) arrest and imprisonment for civil causes during meetings of the legislatures in question, and for periods of a week before and after such meetings.

This recommendation should not be dealt with as a matter of privilege, but by amendment of or action under the ordinary law. (Paragraph 91).

The Minority had no objection. [Head (30) at page 192].

The Legislative Members Exemption Act 1925 (Act XXIII of 1925) giving effect to this recommendation by the amendment of section 320 of the Code of Criminal Procedure and section 135 of the Code of Civil Procedure, was passed by the Legislative Assembly on the 1st September 1925, and by the Council of State on the 7th September 1925.

14. The corrupt influencing of votes within any of the legislative bodies by bribery, intimidation and the like should be made a penal offence, and this should not be dealt with at present as a question of privilege. (Paragraph 91).

The Minority had no objection, *vide* head (30) at page 92.

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1. Under the law as it stands, though to tribe an elector is an offence, it is not an offence either to render a bribe to, or to receive a bribe by, a member of a legislature in India as an inducement to him to vote in a particular manner. On the other hand the intimidation of a legislator for that purpose is covered by sections 503, 506 and 507 of the Indian Penal Code. To give effect to the recommendation of the Committee, action is therefore required only in respect of bribery.

2. On the 25th August 1925 the Home Member introduced a Bill described as the Legislative Bodies Corrupt Practices Bill in the Legislative Assembly. In the Statement of Objects and Reasons attached to the Bill, attention was drawn to the recommendation of the Reforms Enquiry Committee. The Bill proposed to penalize—

(1) the offering of a bribe to a member of a legislature in connection with his functions as such; and

(2) the receipt or demand by a member of a legislature of a bribe in connection with his functions as such.

The definition adopted for the offence followed that in section 171-B. of the Indian Penal Code in regard to the offence of bribing a voter at an election, and in order to prevent vexatious prosecutions the offence was included by the provisions of the Bill in section 196 of the Code of Criminal Procedure.

3. On the 3rd September 1925 the Home Member moved that the Bill be taken into consideration; he stated however that he was prepared to accept a motion, of which notice had been given, for the reference of the Bill to a Select Committee; what he desired at that stage was to obtain the endorsement of the House to the principle of the Bill. The motion for reference to a Select Committee moved by Mr. Chartres was opposed by Diwan Bahadur M. Ramachandra Rao, on the ground that before the Assembly was committed to the principle of the Bill, the views of the provincial Governments and of the provincial legislatures should first be obtained. The Home Member explained that he was prepared to obtain the opinions of the local Governments, executively, before

the Select Committee met. Pandit Mati Lal Nehru, who had been named as a member of the Select Committee, stated that the principle of the Bill amounted only to this, that corruption in a member of the legislature should be made an offence and punishable. While he must decline to pledge himself either to the procedure or to the definitions given in the Bill, he was prepared to accept the principle within the limits which he had stated. The Home Member informed the House that he was merely asking it to affirm the principle that bribery of a member of a legislative body should be made punishable. The motion for the reference of the Bill to a Select Committee was then adopted without a division.

This was followed by a reference being made by the Government of India to the local Governments for an expression of their views. It was explained at the time that in proposing to penalise corruption in regard to members of the legislatures in India, the Bill followed precedents of the United States of America and of Canada.

4. The replies given by local Governments expressed substantial support to the Bill, but the reference led to debates in two Legislative Councils, namely those of Bombay and Madras.

The resolution in the Bombay Council was moved by Mr. Baptista on the 30th October 1925, and was to the effect that the Bill was unnecessary; that it was detrimental to the dignity and independence of members of the legislative bodies; and that the same confidence should be reposed in the sense of honour of members of the Indian legislatures as in the Members of Parliament in Great Britain. In the course of the debate fears were expressed that the Bill, if it became law might be followed by false accusations, and objection was at the same time taken to the provision that the power to sanction a prosecution should rest with the local Government. On the other hand there was a considerable measure of support for the Bill, and Mr. Baptista's resolution was lost by 27 votes to 24.

The debate in the Madras Council was on a resolution moved by the Law Member of the Government of Madras on the 16th December 1925 to the effect that the Council should accept the principle of the Bill introduced in the Assembly on the 25th August 1925. This resolution was discussed on the 18th December 1925, when an amendment was moved by Rao Bahadur C. V. S. Narasimha Raju in the following terms:—

> "This Council accepts the principle of making punishable corruption on the part of legislative bodies in India in the execution of their duties, and considers
>
> (1) that a committee of the legislative body concerned appointed by means of the single transferable vote of which the President of the legislative body concerned shall *ex-officio* be a Member and the President, and the Deputy President shall *ex-officio* be a Member shall be constituted a court of record to try the offences mentioned in the Bill;

(2) that the maximum punishment to which a person convicted of any such offence should be liable shall be expulsion from the House;

(3) that the previous sanction of the President shall be necessary for the initiation of the proceedings for any such offence.

This amendment was put to the House and declared carried. On a poll being demanded 50 members voted for the resolution; no member voted against it. Sixteen members, including the official members, remained neutral.

5. The Select Committee appointed by the Legislative Assembly met once only and submitted no report. The Bill lapsed with the expiry of the life-time of the second Assembly and has not since been re-introduced in the third Assembly.

THE PROVINCIAL GOVERNMENTS.

The Executives.

15. Joint deliberation between the two sides of the Government on important questions should be definitely enjoined by a rule to be included in the Devolution Rules. (Paragraph 96).

The Minority had no objection, *vide* held (17) at page 190.

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1. In so far as the Committee endorsed the principle of joint deliberation, their recommendation does not perhaps go further than the recommendations of the Joint Select Committee of Parliament on the Government of India Bill in paragraph 5 of their Report, and the instructions contained in paragraph 4 of the Instrument of Instructions to Governors. The main point in the Committee's recommendations was that the provisions should be more definite, and this was the reason for their suggestion of the insertion of a rule in the Devolution Rules. Under the Committee's proposals, the Governor was to have a discretion, but this discretion was to be merely that of deciding which cases were of importance.

2. The recommendation may be read with recommendations Nos. 18 and 20, the three recommendations jointly covering the following proposals—

(1) that the Governor should be compelled by rule to refer all important cases for consideration to both sides of the Executive;

(2) that his Instructions should be so redrafted as to limit his powers of dissenting from his Ministers, and

(3) that he should make provisions in his rules of executive business to enable any member of their half of the Executive to require any case to be brought up for consideration either by both halves of the Executive sitting tgether or by all the members of that half of the Executive to which the case appertains.

It has been decided to take no action upon any of these recommendations spending the enquiry to be made by the Statutory Commission, since it was felt o be inexpedient, pending that enquiry, to stereotype local practice. When Parliament decided in 1919 that the device commonly known as dyarchy was the best, and indeed the only available method of endowing provincial Government forthwith with a partially responsible character, the basic postulate was involved that the responsibility of Ministers should be confind to the administration of the subjects transferred to their control, and further that, for so long at all events as the

Government of India Act retains its present form, their responsibility even in the sphere entrusted to their charge should be subject to the overriding power of the Governor, if circumstances required it, to disregard a Minister's advice. The Joint Select Committee, upon whose advice these fundamental postulates were affirmed, recognized the desirability of tempering their rigidity in their practical application and with this object, partly by alteraion in the text of the Statute itself; partly by the terms of the rules framed under it, partly by indication of policy in their report and chiefly by the terms of the instructions issued with their approval under the Royal Sign Manual, they secured some softening of the outline of the purist conception of dyarchy. In certain provinces the Governors, following the lead given by the Joint Select Committee, have adopted the principle of joint consultation for almost all purposes, and it has been claimed that thereby results have been attained which are not inferior to those attained in other provinces where the principle of pure dyarchy has been more strictly applied. The discretion to follow a like course, should it seem desirable to them, rests equally with the other Governors. At the same time in a period which is admittedly one of transition it has seemed desirable to avoid the prescription of a rule and to leave the discretion of the Governors unfettered, not only because it seems to be proper that those who think it possible to give effect to the undoubted inplications of the Statute should not be prevented from doing so; but also in order that in the time that remained before the appointment of the statutory Royal Commission every possible experiment might be tried within limits which Parliament itself determined not to make too rigid.

3. On these grounds it has been decided that until the enquiry of the Statutory Commission has been held, no changes should be made either in the law or in the Instructions which would tend to hinder natural development in the several provinces whether in the direction of dyarchy or of a unitary form of government to the utmost extent compatible with the basic principles of the existing constitution.

THE PROVINCIAL GOVERNMENTS.

The Executives.

16. The Joint Responsibility of the Ministry is the ideal, and the Devolution Rules and the Instrument of Instructions should be modified so far as may be necessary to indicate this rather than that transferred subjects may be administered by the Governor acting on the advice of a single Minister. (Paragraph 98).

The Minority made the following comments, *vide* head (18) at page 190.

> "As regards the question of joint responsibility of the Ministers we suggest that section 52 (3) itself should be modified so as to secure this end. We would not leave it to the growth of a convention on the subject. We desire to say that the Cabinet system with a Chief Minister should be definitely provided for. It has been tried successfully in Madras and we do not agree with the suggestion of the majority that the difficulties in the way of establishing joint responsibility in India are great and that they are enhanced where the two main communities, Hindu and Muhammadan, are keenly divided in a local Council. We think that in every Council there are at least a certain number of Hindus and Muhammadans who share common political aims and ideals and we believe that the enforcement of the principle of joint responsibility will promote common political action and help to strengthen political parties in Councils and outside."

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1. The Government of India have no hesitation in accepting the principle of joint responsibility of the Ministry as the ideal, but apart from the difficulties mentioned in paragraph 98 of the Committee's report, the conception of Cabinet responsibility, as it obtains in England, is, in their opinion, one which is incapable of translation into regulations and any attempt to do so would be likely to prevent rather than to foster its development. Much of the criticism directed against rules alleged to militate against the conception of joint responsibility, on the ground that references occur individually to the "Minister in charge of the subject" and not to Ministers collectively, would seem to be based on a failure either to read the rules in question in their true perspective or to appreciate the fact that the departmental system necessarily involves the transaction of a large proportion of the work of a department by or with the Minister or Member in charge of the department and without reference to his colleagues.

2. It has been decided on these grounds that no amendment should be made either in Devolution Rule 10 or in the Instrument of Instructions or elsewhere for the purpose of giving effect to this recommendation.

THE PROVINCIAL GOVERNMENTS.

THE EXECUTIVES.

17. The constitution should provide that a Minister should ordinarily get the same salary as a Member of the Executive Council in the same province, but that this may be varied by an Act of the local legislature so as not to be less than 3/5ths of, or more than the salary payable to a Member of the Executive Council in the same province. Section 52, sub-section (1) of the Act should be amended accordingly. (Paragraph 100).

The Minority did not indicate the fraction which they would fix as the minimum salary of a Minister, but their comments under head (1) at page 187 indicate that they were in general agreement with the recommendation of the Majority.

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1. When making this recommendation the Committee referred to the refusal of the Bengal Legislative Council to provide any salary for the Ministers, and to the vote of the Legislative Council of the Central Provinces granting the Ministers a salary of Rs. 2 per annum only, and held that it was never intended by Parliament that the Government of India Act of 1919 should give power to the Legislative Council to decide whether Ministers were or were not to form a part of the Government, and Parliament did intend that the Ministers should get a reasonable salary. The Committee referred to the proposals which they had made with the object of securing that the responsibility of the Ministers to the legislatures should be real (recommendation No. 30); they, therefore, desired to retain the constitutional position that disapproval of a Minister's policy may be indicated by a motion for the reduction of his salary, and at the same time to accompany it by provisions which would ensure that the Ministers should obtain a reasonable salary. They, therefore, recommended three amendments in sub-section (1) of section 52—

(*a*) that the section should provide that a Minister of a province should ordinarily receive the same salary as a Member of Council in that province;

(*b*) that power should be given to vary by an Act of the local legislature the salary fixed by the section so that it shall not be less than three-fifths of, nor more than, the salary payable to a Member of Council in that province; and

(*c*) that the section should be provide for the making of rules to enable a formal reduction of a Minister's salary to be moved at the time of the Demands for Grants as a method of criticising his policy.

Of these three amendments, that under (*c*) is discussed under recommendation No. 30; comment under this recommendation relates only to amendments (*a*) and (*b*).

2. Sub-section (1) of section 52 of the Government of India Act, as it now stands, provides that there may be paid to any Minister appointed by the Governor in any province the same salary as is payable to a Member of the Executive Council in that province, unless a smaller salary is provided by a vote of the Legislative Council of the province. By its recommendation the Committee intended to secure that the salary paid to any Minister should be the same salary as was paid to a Member of the Executive Council of that province, unless the local legislature by an Act fixed a less salary, and the powers of the Legislature in regard to such an Act were to be restricted so as to provide that the minimum salary should be three-fifths of that of a Member of the Council. Once the salary has been so fixed by an Act of the local Legislature, it would become an amount prescribed by or under any law within the meaning of clause (*iii*) of sub-section (3) of section 72-D. of the Act. It would, therefore not be subject to the vote of the legislature, and the idea of the Committee was evidently that it would probably remain unchanged for a comparatively long period. Section 66 of the Commonwealth of Australia Constitution Act 1900 is a provision on similar lines to that recommended by the Committee, for it provides that a specified annual sum shall be payable for the salaries of the Ministers of State, until Parliament, that is by an Act of Parliament, otherwise provides.

3. The Government of India have agreed with the Committee that it was not the intention of Parliament that the local legislatures should have the power of preventing any Ministers being appoinnted, and that it was the intention that the Ministers should get a reasonable salary. The recommendation of the Committee would ensure this object. The fraction of three-fifths is an arbitrary fraction, but suitable. The Government of India have, therefore, supported the Committee's recommendation, and the Secretary of State has agreed to undertake Parliamentary legislation to amend section 52 on a convenient opportunity. It would of course still remain possible for Ministers to follow the self-denying example which has been set by individual Ministers in some provinces and draw a smaller salary than that which is fixed.

4. Though the principle of this recommendation has been accepted, pending Parliamentary legislation, its practical utility as a safeguard of the constitution is open to some question, because the change suggested could not effectively frustrate a fixed determination on the part of the majority of the members of any Legislative Council to prevent Ministers from functioning, and consequently to render their appointment nugatory. A majority so determined has only to oppose by its vote all proposals initiated by Ministers to make it impossible for them to retain office, even though the payment to them of a salary, so long as they retain office, is guaranteed. On the other hand such methods of securing

the breakdown of dyarchy would be more injurious to the reputation for common sense and public spirit of its adherents than the simpler method available under the law as it stands of withholding salaries by a single vote. To this extent the amendment of section 52 suggested by the Committee may tend to preserve the constitution from wrecking tactics.

THE PROVINCIAL GOVERNMENTS.

THE EXECUTIVES.

18. The powers of control of the Governor over his Ministers should be more expressly indicated by the redrafting of clause 6 of the Instrument of Instructions so as to provide that subject to a power of interference to prevent unfair discrimination between classes and interests to protect minorities and to safeguard his own responsibility for reserved subjects and in regard to the interests of the members of the permanent services the Governor should not dissent from the opinion of his Ministers. (Paragraph 101).

The Minority do not appear to have made any particular remarks on this recommendation. At page 140, however, they suggested that the power given to the Governor of overruling his Ministers is wholly opposed to constitutional ideas or usage.

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1. This recommendation deals with the important question of the control to be exercised by the Governor over his Ministers. Sub-section 3 of section 52 provides that the Governor shall be guided in relation to Transferred Subjects by the advice of his Ministers. So far the provision corresponds, as indicated by the Committee in paragraph 33 of their report, to provisions in other Constitutions in the British Empire where responsible government has been conferred. The provision, however, goes on to give the Governor power, if he sees sufficient cause, to dissent from the opinion of his Ministers and to require action to be taken otherwise than in accordance with their advice. The recommendation deals with the circumstances in which the Committee consider that the Governor should use his power under this provision. Their definite recommendation was that clause 6 of the Instrument of Instructions to Governors should be redrawn so as to provide that subject to a power of interference to prevent unfair discrimination between classes and interests, to protect minorities, and to safeguard his own responsibility for reserved subjects, and in regard to the interests of the permanent services the Governor should not dissent from the opinion of his Ministers.

2. The recommendation requires to be read with recommendations Nos. 15 and 20. For the reasons given under recommendation No. 15 it has been decided that no action should be taken on this recommendation pending the enquiry to be made by the Statutory Commission.

THE PROVINCIAL GOVERNMENTS.

THE EXECUTIVES.

19. Provision should be made in the provincial legislative rules giving a Minister who has resigned the right to make in the Council a personal explanation of the causes of his resignation. The provisions should so far as possible follow English practice. (Paragraph 101).

The Minority made no remarks on this recommendation.

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1. It seems clear that the Committee regarded the power of Ministers to resign as likely to prevent undue interference with them by the Governor and thought that it was only fair that a Minister who may have resigned should have the right to make a personal explanation.

Some objection was taken on the ground that the *ex*-Minister's explanation might consist of criticisms of the Governor's conduct, the utterance of which in the Council would be opposed to the spirit of the constitution. On the other hand, the local Council would appear to be the proper place in which a Minister who has resigned should make a personal explanation of his resignation, since he would have been appointed to be a Minister on the view that he would be able to command the support of a large section of the members of the Council. It was understood that under the normal procedure followed in the House of Commons such statements would be made before the commencement of public business, and that while a debate may not arise on the explanation, statements pertinent thereto on behalf of Government are permitted. The Government of India concluded therefore that a procedure on those lines might suitably be adopted for the provincial Legislative Councils, and it seemed preferable to make definite provision in the rules rather than to leave the procedure to be established by convention.

2. This recommendation was therefore accepted, and a new rule 10-A. inserted in the Provincial Legislative Council Rules by notifications issued on the 27th October 1926.

THE PROVINCIAL GOVERNMENTS.

The Executives.

20. The rules of executive business made by Governors under section 49 of the Act should be amended to provide, where this is not already the case, that—

(*a*) a Member of Council or a Minister should be able to make a recommendation to the Governor that any case in his own department should be considered before the joint cabinet or before that side of the Government with which it is directly concerned: and

(*b*) that the Secretary of the Department or other officer with a right of direct access to the Governor should inform his Minister of every case in which he differs in opinion from the Minister and of all other important cases which he proposes to refer to the Governor. (Paragraph 102).

The remarks of the Minority will be found in head (28) at page 192.

"As regards the rules of executive business we have no objection to the first recommendation of the majority that where this is not already the case, a rule may be made providing that a Member or a Minister may recommend to the Governor that a case in his own department should be considered before the joint Cabinet or before that side of the Government which is directly concerned in it."

"As regards the second recommendation, we have no objection. As regards the question of direct access of the Secretary or the head of a transferred department to the Governor we do not think that it is parallel to such right of access in the case of a Secretary or head of a department on the reserved side. In the former case the Minister is responsible to the legislature: in the latter the Member in charge of a portfolio on the reserved side of the government owes no such responsibility."

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1. The fact that the Committee only made suggestions for rules to be made under section 49 (2) indicated that they did not intend to interfere with the discretion of the Governors to make rules on the lines suggested, but proposed to leave it to the Governors to decide whether to make such rules or not. If the Committee had intended definitely to secure the adoption of rules on the lines which they suggested, it was probable that, as in the case of recommendation No. 15, they would have made recommendations for rules to be included in the Devolution Rules which would then by the proviso

to sub-section (2) of section 49 have overruled any rules made under that sub-section.

The term "joint cabinet" could scarcely be regarded as an entirely suitable term to describe a joint meeting of a dyarchic Government, but the Committee possibly did not intend that the term should be used in the actual rules to be drafted.

It may be observed that under the first proposed rule, the Governor would be left a discretion to decide whether he would accept the recommendation of the Member or the Minister, as the case may be, or not.

2. For the reasons given under recommendation 15, it has been decided that action should not be taken to give effect to the first part of this recommendation pending the enquiry to be made by the Statutory Commission.

The second part of the recommendation is substantially met by the rules in force in several provinces. Thus rule 8 of the Rules of Business in Bengal reads as follows—

> *Rule 8.*—Any case may, at any stage, if the Secretary in the department to which the case belongs thinks fit, be submitted by him to the Governor:
>
> Provided that when a case is so submitted to the Governor, the Member or Minister in charge shall be at once informed of the fact by the Secretary.

THE PROVINCIAL GOVERNMENTS.

The Executives.

21. The word " may " in clause 2 of rule (2) of the Transferred Subjects (Temporary Administration) Rules should be changed to " shall ". (Paragraph 103).

The Minority [*vide* head (2) page 188] had no objection.

This recommendation was accepted, and effect given to it by a notification dated the 29th April 1926.

THE PROVINCIAL GOVERNMENTS.

The Executives.

22. The provisions as regards Council Secretaries in the Provinces should be modified—

(*a*) so as to provide that they shall get a reasonable salary the amount of which will be determined by an Act of the local Legislature, and

(*b*) that on the Transferred side the Minister should make recommendations for appointment as Council Secretaries for the approval of the Governor and that, when appointed, they should hold and vacate office with the Minister. (Paragraph 105).

The Minority had no objection—*vide* head (19) on page 190.

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1. At present under section 52 sub-section 4 of the Act the salaries to be paid to the Council Secretaries are such as may be provided by vote of the Legislative Council. In the case of the Central Government, however, salaries to be paid to Council Secretaries appointed under section 43-A. of the Act are such salaries as may be provided by the Indian Legislature and in view of the fact that demands are only voted by the Assembly this provision must, in the opinion of the Government of India, be interpreted to mean provision by an Act of the Indian Legislature. The Committee recommended that both on the reserved and the transferred sides the salaries to be paid to Council Secretaries should be determined by an Act of the local Legislature. This recommendation, therefore, would in practice reproduce the provision now in force in regard to the salaries of any Council Secretaries who might be appointed by the Governor General. Under sub-section 5 of section 72-C. of the Act the local Legislature have already powers to determine by Act the salaries of the elected Presidents and the Deputy Presidents. The further recommendation of the Committee only affects Council Secretaries on the transferred side of the Government. The Committee recommended that they should be appointed on the nomination of the Minister and should hold and vacate office with the Minister.

2. The local Governments raised little objection to this recommendation though most of them suggested that Council Secretaries are not required. Other suggestions were that the maximum and minimum limits of the salaries should be specified in the sub-section and that the salary should be fixed in the Statute. The Government of India do not consider that there is sufficient reason for adding a further schedule to the Act to deal with the salaries of Council Secretaries, and think that the Committee were correct

in leaving both the maximum and minimum salaries to be fixed in this case by an Act of the local Legislature. Under the recommendation it will still be within the discretion of the Governor to appoint Council Secretaries or not.

3. This recommendation therefore has the support of the Government of India and Parliamentary legislation for the amendment of section 52 is awaited.

THE PROVINCIAL GOVERNMENTS.

The Executives.

23. The following provincial reserved subjects should now be transferred :—

(*a*) No. 12, Fisheries. In Assam.
(*b*) * * * * * *
(*c*) * * * * * *
(*d*) * * * * * *

(Paragraph 93).

This recommendation may be read with the remarks of the Minority at pages 185 to 187.

The Government of Assam saw no reason why this subject should not be transferred, except in regard to the collection of revenue from Fisheries. But the fact that the revenue from Fisheries is collected by the Land Revenue staff does not mean that Fisheries cannot be transferred. Devolution Rule 11 definitely contemplates officers performing duties in departments dealing with reserved as well as in departments dealing with transferred subjects. This recommendation was therefore accepted and effect was given to it by an amendment of Schedule II to the Devolution Rules notified on the 29th April 1926.

THE PROVINCIAL GOVERNMENTS.

The Executives.

23. The following provincial reserved subjects should now be transferred:—

(*a*) * * * *

(*b*) *No. 24-Forests.*—In provinces in which this subject has not been transferred already, unless the local Government concerned on examination of the position can make out a convincing case against transfer.

(*c*) * * * *

(*d*) * * * * (Paragraph 93).

This recommendation may be read with the remarks of the Minority at pages 185 to 187. The Minority observed that the only major subject recommended for transfer by the Majority was Forests.

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1. From the form in which their recommendation was made the Majority appear to have recognised a possibility that the question of the transfer of forests might raise different issues in the different provinces according to the circumstances of forest administration in each. In some provinces forest administration may have been carried to a high stage of technical efficiency, and the problem there would be mainly one of maintaining existing standards; in others, though forests have been reserved and demarcated, exploitation may still be in its infancy, and the main problems would perhaps relate to the initiation of valuation surveys, experiments with various timbers, the development of economical methods of extraction, and the creation of markets for the produce in competition with other sources of supply; in other provinces again the work even of demarcation may still be far from complete, and the broad lines of forest policy still undetermined.

2. The guiding principles laid down in paragraph 238 of the Joint Report on Indian Constitutional Reforms to govern the transfer of subjects to popular control under the present constitution was "to include in the transferred list those departments which afford most opportunity for local knowledge and social service, those in which Indians have shewn themselves to be keenly interested, those in which mistakes which occur, though serious, would not be irremediable, and those which stand in most need of development".

From the last of these principles it might be argued that in provinces where forest administration is in its early stages and where the important problem for the future development of the forests is further reservation and demarcation, the transfer of forests to popular control is desirable.

Where forests have been reserved, but their development has not greatly advanced, it might be claimed that this is precisely the situation in which the Joint Authors contemplated that there should be transfer and that Ministers are no more likely to be unsuccessful in developing the forests and in stimulating research than their predecessors have been.

In the last stage where, as a result of careful management on scientific lines over a number of years, the forests have reached the stage of active exploitation, fears based upon assumptions that popular control by the Legislative Council would necessarily involve a deterioration in the technical standards of administration might prove to be unsupported, so far as conditions are comparable, by the experience of Bombay and Burma where forests are transferred, and by the experience, within the province, of other subjects which have passed to the control of Ministers.

3. Arguments against transfer at one or other of these three broad stages of forest administration may carry greater or less weight according to other conditions generally existent in the province. It is possible however to take the view that in considering the broad question of the transfer of Forests, variations in the forest development of different provinces may not in themselves be a matter of the first importance, since to accept all the arguments based upon the particular stage of forest development which could be brought forward against transfer would tend to imply that at no stage of forest administration could transfer, in present circumstances, be contemplated.

4. Objections have, however, been urged on more general grounds; for instance, on an alleged hostility of the provincial Legislative Councils to forest conservation; on a feared inability of Ministers to withstand short-sighted demands the acceptance of which might undo the work of years; and on the temptation to which Ministers might be exposed to over-work the forests so as to obtain immediate yields of revenue without due regard to future interests. Attention too has been drawn to the fact that large forest areas are situated in backward tracts wholly or partially excluded from the jurisdiction of Ministers and of the Councils. Further, it has been urged that, since protected, as distinct from reserved, forests are frequently in charge not of the Forest Department, but of the Land Revenue officials, Forests should not be transferred, so long as Land Revenue is reserved. Lastly stress is laid upon the provincialisation of the Forest Service which would follow upon the transfer of the subject; and on the loss to the Central Government of powers of superintendence, direction and control over forest administration. To this last argument weight is lent by the fact that the reserved forests are frequently the catchment areas of large rivers on which the prosperity of other provinces depends, and it is claimed that since the provincial forest administration has therefore more than a provincial interest, it should remain under the general control of the Central Government, which can

be secured under the present constitution only by retaining Forests as a reserved subject.

Both the nature and the force of these arguments vary. Some may be said to be *a priori* and psychological—based more on conjecture as to the probable attitude of certain elements in the machinery of the constitution than on actual experience. Others, as already stated, may be said to imply a permanent inhibition against the transfer of Forests. Others again may be susceptible of treatment, either by the adoption of special expedients designed to meet the needs of individual provinces or, where they are based on the economic value of Forests to India as a whole, by the retention to the Government of India of a power of eventual intervention to safeguard what is of all-India interest. Finally, against those who oppose transfer, it may be possible to place the experience of Bombay and Burma, should it be shown that the transfer of Forests in these provinces, even if not of actual benefit, has not been attended with harmful consequences.

5. No decision has been taken by the Government of India upon this recommendation of the Committee, nor will any decision be taken, pending the enquiry into the constitution now being made by the Statutory Commission.

THE PROVINCIAL GOVERNMENTS.

THE EXECUTIVES.

23. The following provincial reserved subjects should now be transferred:—

(*a*) * * * *

(*b*) * * * *

(*c*) No. 16, Excise. In Assam.

(*d*) * * * *

(Paragraph 93).

This recommendation may be read with the remarks of the Minority at pages 185 to 187.

No objection was raised by the Government of Assam. This recommendation was therefore accepted, and effect was given to it by an amendment of Schedule II to the Devolution Rules notified on the 29th April 1926.

THE PROVINCIAL GOVERNMENTS.

The Executives.

23. The following provincial reserved subjects should now be transferred:—

(*a*) * * * *

(*b*) * * * *

(*c*) * * * *

(*d*) *No. 26.*—From amongst the industrial matters included in this item the following:—

(*d*) boilers;

(*e*) gas; and

(*g*) housing of labour.

But boilers and housing of labour should remain subject to legislation by the Indian legislature.

(Paragraph 93).

This recommendation may be read with the remarks of the Minority at pages 185 to 187.

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1. *Boilers.*—The recommendation for the transfer of 'boilers' received some support, but the local Governments were on the whole opposed to it. The subject is even more connected with 'factories' than is the subject of 'smoke nuisances', which the Committee for that reason had thought should not be transferred. It was decided therefore not to accept this recommendation.

2. *Gas.*—There was no objection to the transfer of "gas", but since the other items under this head were retained on the reserved side, it was decided that "gas" should not be transferred.

3. *Housing of labour.*—Objection was raised to the transfer of this subject on the ground that housing questions are usually connected with the housing of the depressed classes and that subjects affecting those classes should remain reserved. In Bombay the only important scheme for the housing of the working classes in that Presidency had been carried out by the Development Department on the reserved side, and a division of authority was considered undesirable. In Assam the housing of labour means for the most part the housing of labour in the tea gardens dealt with in connection with 'immigration' which is a reserved subject. Moreover, it was urged that the housing of labour could not in practice be dissociated from the welfare of labour, which again is dealt with on the reserved side. On these grounds, it was decided not to accept this recommendation.

THE PROVINCIAL GOVERNMENTS.

The Executives.

24. The following action should be taken in regard to other provincial subjects—

(*a*) *No. 15.—Land Acquisition.*—Local Governments should be consulted as to whether, in so far as it relates to purely provincial land acquisition, this subject cannot be transferred.

(*b*) *No. 18, Provincial Law Reports.*—The High Courts should be consulted as to whether this subject cannot be transferred.

(*c*) *No. 27, Stores and Stationery.*—The existing restriction on the transfer of this subject that it is subject in the case of imported stores and stationery to such rules as may be prescribed by the Secretary of State in Council should be deleted.

(*d*) *No. 43, Provincial Government Presses.*—The question whether this subject cannot be transferred should be examined. (Paragraph 93).

This recommendation may be read with the remarks of the Minority at pages 185 to 187. The Minority had no objections to these transfers, and would have been prepared to go further.

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1. *No. 15—Land Acquisition.*—In discussing the transfer of land acquisition the Committee stated that the *primâ facie* reasons for not transferring this subject were not clear. They thought a difficulty might arise with the acquisition of land for the Central Government, but saw no objection to transfer so long as it related to a provincial land acquisition. The Committee suggested that the provincial Governments should be consulted before any action was taken and in effect threw the onus on the provincial Governments to show why land acquisition should remain a reserved subject.

In accordance with the suggestion made by the Committee local Governments were consulted and were found to be practically unanimous in their opposition to any transfer of the subject of land acquisition.

The functions of the Executive Governments in India in regard to this subject may be stated to be as follows:—

(*i*) The decision under section 4 of the Land Acquisition Act of 1894 that a notification shall be published to the effect that land in a particular locality is likely to be needed for a public purpose, and the decision that a

declaration be made under section 6 that particular land is needed for public purpose;

(*ii*) the making of rules under section 55 for the guidance of officers in matters connected with the acquisition of land; and

(*iii*) the actual process of acquisition.

Of these functions the Government of India considered that there was little doubt that the first is a power which should be possessed by both the reserved and the transferred sides of the provincial Governments. Some local Governments, for example the Governments of Bombay and the United Provinces, had in fact indicated in their replies that the decision in each case whether land should be acquired under the rules is left to the administrative department concerned which alone can judge of the necessity. The Government of India were of opinion that this practice scarcely corresponded to the actual wording of entry 15 of the list of provincial subjects, and the point has now been cleared up by an alteration of the schedule to the Devolution Rules so as to provide that the Government for the purposes of declarations under sections 4 and 6 of the Land Acquisition Act of 1894, is the Government in the reserved or transferred half according as the land is to be acquired for a reserved or a transferred department. This amendment to Schedule II of the Devolution Rules was made by a notification issued on the 16th July 1926.

In regard to the second function the Government of India considered that the power to make rules should be exercised by one side only of the Government, that is to say the reserved side: they were therefore opposed to any transfer of that function.

As regards the third function there seemed to the Government of India to be no doubt that it should be exercised by one staff and that is the staff which is engaged upon the administration of land revenue. No transfer has accordingly been made of this function.

2. *No. 18, Provincial Law Reports.*—The majority of the High Courts and local Governments were opposed to this recommendation which has not been accepted. The selections of judgments to be reported is a matter which intimately affects the administration of civil and criminal justice. So long as that subject remains reserved the selection and publication of judgments binding on the lower courts should also remain reserved.

3. *No. 27, Stores and Stationery.*—Effect was given to this recommendation by rules made by the Secretary of State in Council under item 27 of Part II of Schedule I and item 17 of Schedule II to the Devolution Rules prescribing that the purchase of imported stores and stationery shall be regulated by rules made by local Government. These rules were published by a notification issued on the 7th January 1926.

4. *No. 43, Provincial Government Press.*—This recommendation has not been accepted. The majority of the local Governments were opposed to the transfer of this subject on the ground that

presses do work for reserved departments and their transfer might result in administrative inconvenience. In some provinces the agency of the Jails is used to a considerable extent for press work and it was urged that so long as Jails remain a reserved subject it would be unsuitable to transfer Government presses.

THE PROVINCIAL GOVERNMENTS.

The Executives.

25. The two schedules of subjects annexed to the Devolution Rules should be examined, and the lists should be re-arranged on a more logical basis.

The comments made by the Majority (paragraph 93) were as follows:—

> "As a general minor recommendation we recommend that the two schedules should be examined and the lists should be re-arranged on a more logical basis. We would point out, for example, that it is not possible by an examination of the list of provincial subjects to ascertain which of these subjects are reserved without a reference to the list of transferred subjects, and, again, some of the minor subjects specifically mentioned for example, coroners, seem already to be included within the scope of larger subjects."

No action has yet been taken on this formal recommendation.

THE PROVINCIAL GOVERNMENTS.

The Legislatures.

26. Power should be taken to modify by rules the existing stringency of the control over provincial legislation which is due to the previous sanction provisions by the inclusion of a proviso in sub-section 3 of section 80-A of the Act. (Paragraph 83).

The Minority [*vide* head (11) at page 189] had no objection.

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1. In the course of their comments on this recommendation the Committee noted that the Government of India had suggested the addition to sub-section (3) of section 80-A of a proviso in the following terms:—

> "Provided that nothing hereinbefore contained shall be deemed to prohibit the local legislature of any province from making or taking into consideration, without the previous sanction of the Governor-General, any law satisfying conditions prescribed in this behalf by rules under this Act."

The Government of India favour the expedient of leaving the conditions necessary to exempt a law from the requirement of sanction to be determined by rule, since the adoption of this device would make for elasticity and admit of a progressive advance in the relaxation of the requirements imposed by the existing law. The same view has been taken by the Secretary of State who has agreed to introduce Parliamentary legislation to amend section 80-A (3) on a convenient opportunity.

2. The form to be given to rules framed under section 80-A (3) would not be finally settled until the statute had been amended, but it may be noted that, so long as the present form of the constitution is maintained, it would not be the intention of the Government of India to tamper with the fundamental principles of the law of sanction, but to mitigate the inconvenience resulting from its operation in cases in which that inconvenience is not attended with any compensating advantage.

THE PROVINCIAL GOVERNMENTS.

The Legislatures.

27. The existing provisions, contained in item 5 in the schedule of provincial subjects annexed to the Devolution Rules, which make—

(*i*) the control of the establishment and the regulation of the constitutions and functions of new Universities; and

(*ii*) the Calcutta University, and the control and organisation of secondary education in the Presidency of Bengal subject to legislation by the Indian Legislature should be deleted. (Paragraph 93).

The remarks of the Minority at pages 185 to 187 may be seen. The Minority had no objection, and were prepared to go further with the transfer of subjects.

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1. To take first the second part of this recommendation, the period of five years from the date of the commencement of the Devolution Rules for which the Calcutta University and the control and organisation of secondary education in Bengal was subject to legislation by the Indian Legislature was due to expire at the latest on the 1st April 1926. The Government of India agreed that the entry might be removed as practically spent.

2. The first part of the recommendation was more important. The provision that the control of the establishment and the regulation of the constitution and functions of new Universities should be subject to legislation by the Indian Legislature merely meant, however, that the Indian Legislature may legislate on the subject without previous sanction, and the provincial legislatures with previous sanction. So long as the provision was maintained, it did enable the Central Government to exercise some slight control, but such control was restricted to new Universities and did not affect Universities already established. The Government of India agreed to surrender this small measure of control and accepted this part also of the Committee's recommendation.

Item 5 in Part II of Schedule I and in Schedule II to the Devolution Rules was amended accordingly by notification issued on the 28th April 1926.

THE PROVINCIAL GOVERNMENTS.

The Legislatures.

28. When previous sanction is granted under Section 80-A or Section 80-C of the Act to provincial legislative proposals promoted by non-officials, the sanction should be available only to the member to whom it was granted, and for the particular Council sitting when it was granted. (Paragraph 84).

The Minority [*vide* head (11) on page 189] had no objection.

This recommendation was made by the Committee with reference to recommendation No. 5 in Appendix II of the letter of the Government of Madras published in the Provincial Reports of the working of the reformed constitution in 1924. The Government of India discussed the question with the Government of Madras and held that it was not necessary to make any amendments in the Legislative Council Rules to give effect to this recommendation as the existing law already covers both proposals. The Government of Madras agreed that the matter need not be pursued further.

THE PROVINCIAL GOVERNMENTS.

THE LEGISLATURES.

29. If decided to be necessary, the existing law in regard to the reservation of provincial Bills should be modified so as to make it clear—

(*a*) that a Governor may return a Bill passed by the Legislative Council for reconsideration by a new Council, in whole or in part;

(*b*) that when the Bill is so returned for reconsideration, whether to the old or to a new Council, amendments may be moved in the Council to any parts of the Bill, if returned for reconsideration in whole, and if returned for reconsideration in part, to those parts; and

(*c*) the amendments suggested by the Governor are open to rejection or amendment by the Council (paragraph 86).

The Minority [*vide* head (11) at page 189] had no objection.

When discussing this recommendation in paragraph 86, the Committee observed that in its opinion the Governor would be well advised to return a Bill, passed by an old Council, to the new Council for reconsideration in whole, since otherwise he might commit the new Council to provisions in the legislation to which it is opposed.

2. The first question for consideration was whether this recommendation was possible to follow under the existing law. Rule 21-A in the Legislative Council Rules of the Governors' provinces does not provide for the lapse of a Bill which has been passed by a Legislative Council, but to which the Governor has not accorded his assent when the Council is dissolved. The rule, therefore, does not prevent a Governor taking action under section 81-A in regard to a Bill passed by a Council after the Council has been dissolved. In regard to the suggestion that as a matter of practice the Governor in such a case should return the Bill for consideration in whole, difficulties arise from the difference in language between the provisions of sub-section (1) of section 81-A and clause (*a*) of sub-section (2) of the same section. In the former case it is clear that the Governor may return a Bill for reconsideration either in whole or in part. In the latter case when the Bill has been reserved, the Governor returns the Bill for further consideration by the Council with a recommendation that the Council shall consider amendments thereto. The difference in language between the two provisions suggests that, in the latter case, when a Bill has been reserved, the Governor may not return it for consideration as a whole, but may

only return it for consideration of the recommended amendments. Assuming this view of the existing law to be correct, then in the case of a reserved Bill, it is impossible for the Governor to follow the practice suggested by the Committee.

3. The view which the Government of India have taken is that section 81-A should not be used after dissolution and that both that section and sub-section (4) of section 67, which relates to the return by the Governor General of Bills passed by both chambers of the Indian Legislature, should be amended so as to prevent a Bill being returned, whether in whole or in part, if dissolution has intervened. At the same time they think it desirable for purposes of clarification that the final words of clause (*a*) of sub-section (2) of section 81-A should be amended to read "return a Bill to the Council for reconsideration, either in whole or in part, together with any amendments which he may recommend." The Secretary of State has noted these amendments for consideration when a favourable opportunity offers of framing a Bill.

4. The Government of India have no doubt that the existing law is correctly stated in (*b*) and (*c*) of the Committee's recommendation, but in these respects it would be for the Presidents concerned to interpret the law when a case arises. It would be possible to prevent divergence of practice by including in the Legislative Rules specific rules for regulating the procedure when a Bill is returned for reconsideration, but the Government of India have not thought that the need for such rules has yet arisen.

THE PROVINCIAL GOVERNMENTS.

The Legislatures.

30. In order to enable the responsibility of Ministers to the Councils to be enforced, provision should be made in the provincial legislative council rules for the following classes of motions—

(*a*) a motion of no confidence,

(*b*) a motion questioning a Minister's policy in a particular matter,

(*c*) a motion for the formal reduction of a Minister's salary to be moved at the time when the demands are made for grants.

So far as the latter class of motions is concerned it will be necessary to provide for them when amendments are made to section 52 of the Act in regard to the Minister's salary. So far as the two former motions are concerned in order to prevent them from being moved frivolously, and to provide that they should come up for discussion at an early date, the rules should provide that the person who gives notice of the motion should show that he has the support of about one-third of the members of the council, and that in that case the President shall direct that the motion shall be included in the list of business on a date not later than 10 days after the date of notice. (Paragraphs 80 and 100.)

The Minority either definitely supported or said that they had no objection to these recommendations—*vide* head (1) at page 187, and head (10) at page 189.

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1. Effect has been given to (*a*) and (*b*) of this recommendation by a new rule 12-A inserted in the Legislative Council Rules of the Governors' Provinces by notifications issued on the 27th October 1926, motions under which require the consent of the President and are subject to the following restrictions, namely:—

(*a*) leave to make the motion must be asked for after questions and before the business for the day is entered upon; and

(*b*) the member asking for leave must, before the commencement of the sitting of the day, leave with the Secretary a written notice of the motion which he proposes to make.

The rule accepts the suggestion of the Committee that in order to prevent the unnecessary harassment of Ministers the person giving notice of a motion, whether of want of confidence or disapproving the policy of the Minister in a particular respect, should show that he has the support of about one-third of the members of the Council. The numbers specified in the rule for each provincial Legislative

Council are the largest even integers which are less than one-third of the present strength of each Council.

2. Effect has not yet been given to (*c*) of this recommendation, pending the amendment of section 52 of the Government of India Act on the lines suggested by the Committee in recommendation No. 17. Though it can be argued that it is unnecessary to provide for a formal reduction of a Minister's salary since his policy can be attacked during the discussion of the demands for the grants for which he is responsible, such opportunities occur only once a year. This part also of the Committee's recommendation has therefore been given the support of the Government of India.

THE PROVINCIAL GOVERNMENTS.

The Legislatures.

31. Rule 30 of the provincial Legislative Council Rules, and rule 48 of the Indian Legislative Rules should be amended so as to secure that motions may not be moved when a demand is made for a grant for the omission of the whole grant (paragraph 89).

The Minority had no objection—*vide* head (15) at page 190.

This recommendation was accepted, and the rules amended by notifications issued on the 27th April 1926. As observed by the Committee, this amendment does not detract from the powers of the legislatures, as it remains open to them to reject the whole demand by negativing the substantive motion when it is put.

THE PROVINCIAL GOVERNMENTS.

The Legislatures.

32. The Central Provinces Electoral Rules should be amended so as to include an additional constituency comprising the Mandla district. It is for consideration whether the constituency should include Mandla town, or whether the town should continue to be included in the urban constituency of small towns in the Jubbulpore Division. When the constituency is created, the existing provision in the rules for the nomination of a member to represent this district should be deleted. (Paragraph 68.)

The Minority made no remarks.

The Government of the Central Provinces agreed that the Mandla town which has a population of less than 9,000 and is distinctly rural in character, should be included in the same constituency as the proposed non-Muhammadan rural constituency for the Mandla district. With the grant of the franchise for the local Council to non-Muhammadan electors in this district, it was clear that Muhammadans and landholders who are otherwise qualified and reside in the same area should be given the franchise, and that all these classes should obtain the franchise not only for the local Council, but also for the Council of State and for the Legislative Assembly.

2. The Electoral Rules were amended accordingly by notifications published on the 29th April 1926.

THE PROVINCIAL GOVERNMENTS.

THE LEGISLATURES.

33. The six months' residential qualification should not be required from candidates for European seats in any of the legislative bodies constituted under the Act. In these cases candidates should only be required to have an all-India residential qualification which should not be affected by temporary leave of absence from India. (Paragraph 71.)

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1. Under head (24) at page 191 the Minority stated that as regards European commercial representation in the Legislative Assembly, they had no objection to the recommendations of the Majority. There is no elected European commercial representation, as such, in the Legislative Assembly where the elected European representation is entirely provided in general constituencies; moreover, the recommendation of the Majority relates both to the provincial legislatures and to the Central Legislature. It is, however, apparently to be assumed that the Minority had no objection to the proposals made by the Majority in their recommendation No. 33.

2. The recommendation is in general terms and the Government of India considered that it was not intended to apply either to special constituencies or to seats for which Europeans may stand for election together with other non-Muhammadans. The scope of the recommendation was therefore limited to the European general constituencies of the Legislative Assembly (namely, Madras, Bombay, Bengal, the United Provinces, Burma and Assam), and of the local legislative Councils of Madras, Bombay, Bengal, the United Provinces, Burma and Bihar and Orissa.

3. The recommendation falls into two parts, first that a six months' residential qualification should not be required from candidates for European seats; and, second, that candidates should only be required to have an all-India residential qualification which should not be affected by temporary leave of absence from India.

Under the rules in force at the time when the Committee made its recommendation, a six months' residential qualification was required only for the Bombay Legislative Council under rule 6 (1) (*b*) of the Bombay Electoral Rules. After consultation with the Government of Bombay the Government of India agreed that this rule should be amended, and by notification issued on the 8th July 1926 a proviso was added to clause (1) of rule (6) to the effect that the provisions of clause (*b*) shall not apply to candidates for European constituencies.

4. Apart from that rule in the Bombay Legislative Rules, the only residential restriction on candidates was the restriction which follows from the rule that the must be electors; there was therefore

no necessity to prescribe an all-India residential qualification for candidates, and the Government of India decided that it would be impracticable to prescribe an all-India residential qualification for electors. It would mean that European electors whose other qualifications depended, for example, on the payment of income-tax could be registered as electors of all European constituencies throughout India. The Government of India agreed however that the rules should be so amended as to provide that the residential qualifications of electors for general European constituencies should in each case be a residential qualification in the province concerned which should not be affected by temporary leave of absence from India.

5. In response to representations made by the European Association one important modification was made. The Association drew attention to the difficulty experienced in finding suitable candidates for some European seats in the Assembly owing to the length of the sessions of the Central Legislature and the great distance of Simla and Delhi from some of the provinces. The Association suggested therefore that the qualification for candidature for an European seat in the Assembly should be enrolment as an elector in any European constituency of the Assembly. This suggestion was accepted by the Government of India.

These amendments were affected by notifications issued on the 8th July 1926.

THE PROVINCIAL GOVERNMENTS.

The Legislatures.

Recommendations Nos. 34 and 35—*vide* Recommendation No. 10.

THE PROVINCIAL GOVERNMENTS.

Finance.

36. The Meston settlement should be revised as soon as a favourable opportunity occurs. (Paragraph 56.)

The comments of the Minority will be found at pages 144 and 145. The Minority were of opinion that the earliest possible opportunity should be taken to put provincial finances on a sound footing, but feared that it would be extremely difficult to arrive at any satisfactory solution independently of large and substantial alteration in the Constitution.

A memorandum on the subject of the Meston settlement is being separately presented to the Commission.

THE PROVINCIAL GOVERNMENTS.

Finance.

37. The Member of the Executive Council in charge of the Finance Department should not be in charge of any of the main spending departments. (Paragraph 110.)

In the course of their comments generally on the Finance Department, pages 165 to 168, the Minority said that it was unsatisfactory that the Finance Member should have charge of any of the administrative Departments.

The Government of India accepted this recommendation, and in 1926 requested provincial Governments to give effect to it to the fullest extent possible.

THE PROVINCIAL GOVERNMENTS.

FINANCE.

38. The Devolution Rules relating to the appointment of a Joint Financial Secretary should be modified so as to provide for a power to appoint Financial Advisers to the Ministers in regard to transferred subjects. (Paragraph 112.)

The Minority did not discuss this recommendation as it stands, but in referring to the Joint Financial Secretary said that the provision would very likely have produced administrative difficulties and friction, and they were not surprised that in no single province had it been utilized. (Page 165.)

This recommendation was accepted, and the necessary amendment of Devolution Rule No. 36 was made by notification issued on the 15th July 1926.

THE PROVINCIAL GOVERNMENTS.

Finance.

39. Devolution Rule 31 should be amended so as to indicate clearly that it applies not only to the distribution of revenues on the occasion of the preparation of the annual estimates of revenue and expenditure, but also to the distribution between reserved and transferred departments of any revenues which may become available during the course of a financial year. (Paragraph 110.)

The Minority expressed no opinion.

This recommendation was accepted, and by notification issued on the 15th July 1926 Devolution Rule 31 was amended by the substitution of the words " the framing of proposals for the apportionment of funds between reserved and transferred departments respectively, whether at the time of the preparation of the Budget or otherwise " for the words " the framing of proposals for expenditure in regard to reserved and transferred subjects ".

THE PROVINCIAL GOVERNMENTS.

FINANCE.

40. The powers of a Member or a Minister to sanction reappropriations which now only extend to reappropriations within a grant between heads subordinate to a minor head should be extended, subject to the existing limitations in regard to expenditure which involves a recurring liability and in regard to the communication to the Finance Department of a copy of any order, to any re-appropriation within a grant from one major, minor, or subordinate head to another. (Paragraph 113.)

The Minority had no objection—*vide* head (21) at page 191.

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1. It is possible that in making this recommendation in wide terms the Committee did not realise the varying practice in regard to the voting of grants in different provinces. For example, Burma has only four grants, one for each member of the Government, and the power of the legislature in regard to appropriation of supply is taken away by re-appropriation within these large grants. Some further definition of the proposed powers of Ministers to re-appropriate without the sanction of the Finance Department would certainly be required.

2. The Government of India were, however, opposed to this recommendation on more general grounds. In the United Kingdom, Treasury sanction is required to every re-appropriation from one sub-head to another within a grant, and every such re-appropriation has to be defended before the Public Accounts Committee. In India the Public Accounts Committees are similarly required to scrutinise every re-appropriation within a grant, and for that reason it is desirable to retain in the hands of the Finance Department the power of sanctioning such re-appropriations. The Public Accounts Committees, both of the Assembly and of the Provincial Councils may be expected, as time goes on, to assert more and more strongly the necessity from their standpoint of restricting powers of re-appropriation; the Government of India were therefore unable to agree to any widening of the existing rules by reducing the powers of the Finance Department. The Government of India have no doubt that, as experience grows, provincial Governments will be able to improve their form of estimate and appropriation accounts, following on improvements contemplated in the Central Government's forms, so as to give the required elasticity by widening the scope of sub-heads and replacing minor and major heads of account by sub-heads. The Government of India recognise that the present diarchical division between the Finance Member and the Ministers makes the existing restrictions rather more irksome, but the main objection taken to them is exactly the objection taken everywhere to Finance Department control, which is of course essential.

3. For these reasons this recommendation has not been accepted.

THE PROVINCIAL GOVERNMENTS.

Finance.

41. In such cases as those relating to the grant of forest rights, the provincial Finance Department should prescribe that its assent in cases in which previous consultation with it is required by the rules, may be presumed in cases of even greater importance than those that may now be disposed of by the permanent officials of the Forest Department. (Paragraph 114.)

The Minority had no objection—*vide* head (21) at page 191.

As explained in paragraph 114 of the Report this recommendation arose out of representations made by the Ministers in Burma. Under Devolution Rule 45, provincial Finance Departments have power to dispense with previous consultation by general or special order specifying cases in which their assent may be presumed to have been given. The Government of India agreed that the powers of a Member or Minister in charge of a Department to act without consulting the Finance Department should not be less, and may be appreciably greater, than those granted to permanent officials. All that was intended by the Committee was to endorse this principle. The Government of India communicated to the Provincial Governments their agreement with the Committee's recommendation.

THE PROVINCIAL GOVERNMENTS.

FINANCE.

42. Steps should be taken to obtain a definition of the phrase 'government of India' in section 20, sub-section (1) of the Act. The scope of the phrase should extend, for example, to expenditure on the financing of industries by private persons. (Paragraph 115.)

The Minority had no objection—*vide* head (22) at page 191.

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1. The Committee raised this question in connection with restrictions upon the borrowing powers of local Governments. They stated that the phrase "government of India" in sub-section (1) of section 20 of the Act had been held to mean the superintendence direction and control of the country, and that doubts had been expressed in certain judicial decisions as to whether certain classes of expenditure came within its scope. As an example of the restrictions which might possibly be held to follow from this provision, the Committee cited the question of whether a local Government would be able to utilise funds raised by borrowing to finance industries being carried on by private persons.

2. The Committee appear to have had in mind rulings reported in I. L. R. XXVIII, Bombay, 314, I. L. R. XXXVIII, Calcutta, 754, and I. L. R. XLV, Madras, 156, in regard to judicial interpretations of the phrase "government of India". It was held by Jenkins, C. J., in the Bombay case and by Mookerjee, J., in the Calcutta case that the words meant the superintendence direction and control of the country. With regard to Sir Ashutosh Mookerjee's judgment, however, he was hearing a case with another Judge, Teunon, J., who dissented from his remarks on this point and no final decision in the case was passed on it. In the Madras case Coutts Trotter, J., held on the other hand that as a general rule it would be an impossible task exactly to draw the line as to what falls within the strict purview of the phrase "government of India", and ruled that it was not outside the statutory powers of the Governments in India to conduct a soap factory for the purpose of encouraging by demonstration the starting of this industry by private persons.

3. The Committee suggested that steps should be taken to obtain a clear definition of the meaning of the phrase. In 1923 the Government of India had referred the question to the Advocate-General of Bengal who advised that he agreed with Coutts Trotter, J., that it would be an impossible task to draw line as to what falls within the strict purview of the phrase "government of India" and that he was unable to formulate an exact interpretation of the words "for the purposes of the government of India alone" beyond

stating that the words are fairly wide and their application must depend on the facts and circumstances of the case. It seemed unnecessary to the Government of India to take any further action upon the Committee's recommendation until it is clear that other courts will not follow the view adopted by Coutts Trotter, J.

4. With regard to the particular point mentioned by the Committee, as to the power to expend revenues of India on the financing of industries by private persons, their use for such purposes is permitted by the Local State Aid to Industries Acts passed by the Madras and Bihar and Orissa Legislative Councils and by the Punjab Industrial Loans Act. Similarly, recommendations of the Tariff Board in various cases assume that Governments in India can take this course. The development of industries is mentioned as a function of Government in the Schedule to the Devolution Rules.

THE PROVINCIAL GOVERNMENTS.

Finance.

43. If the experiments now being undertaken in regard to the separation of accounts from audit shew that such separation is feasible, and if it is also found to be feasible to separate provincial accounts from the accounts of the central government, action should be taken in both these directions. (Paragraph 116.)

The Minority had no objection—*vide* head (23) at page 191.

Subsequent to the recommendation of the Committee an experiment was made with the separation of accounts from audit in the United Provinces. A memorandum dealing generally with the issues involved in the separation of accounts from audit is being separately presented to the Commission.

THE PROVINCIAL GOVERNMENTS.

The Public Services.

44. Any action necessary for the protection of the services in the exercise of their functions and in the enjoyment of their recognised rights and privileges should be taken. (Paragraph 104.)

On page 163 the Minority said that they fully realised the imperative necessity of safeguarding the interests of the services and suggested that this should be achieved by the passing of an Act by the Imperial Parliament or by the Indian Legislature or by the incorporation of special provisions for the protection of the rights and interests of the services in the future constitution of India. They felt that, whichever method is adopted, the question calls for an effective and early solution. The Minority observed that they wished the permanent services in India to be placed on the same basis as in England.

For the present position with regard to the subjects covered by this recommendation and by recommendations 45 and 46, all of which are in general terms, reference is invited to a memorandum separately presented to the Commission on the subject of the position of the Services.

THE PROVINCIAL GOVERNMENTS.

The Public Services.

45. The control over recruitment for the services in the transferred field should be entrusted to the proposed Public Service Commission or Commissions. (Paragraph 104.)

On pages 164 and 165 the Minority criticised the provisions of the Act relating to the appointment of a Public Services Commission by the Secretary of State in Council. With reference to the provincialisation of the services directly employed in the administration of transferred subjects, the Minority suggested that it would be anomalous to place the Services or any portion of them under the protection or control of any authority other than the Government of India, and stated that they recognised the importance of keeping the services well contented, and beyond the reach of the fluctuations of political opinion or influence incidental to a system of democratic Government. The Minority held that proper relations between the legislatures and the services cannot be established so long as the former feel that they have no power of dealing with them in respect of the matters mentioned in Section 96B (2), and so long as the latter feel that they can look up to a higher authority outside India in respect of those matters. The Minority considered that what was required was the cultivation of a due sense of responsibility on either side, and stated that they would welcome any legislative enactment which secured that object. They added that their views could obviously not be given effect to by the exercise of any rule-making power.

As stated under recommendation 44, reference on this subject is invited to a memorandum separately presented to the Commission on the subject of the position of the Services.

THE PROVINCIAL GOVERNMENTS.

The Public Services.

46. In the rules for recruitment Government should provide that, with due regard to efficiency, all communities should receive due representation in the public services. That is if a due representation of persons belonging to a particular community who have passed a prescribed efficiency bar can be obtained for each service, the community should receive due representation if necessary by nomination in each service. (Paragraph 104.)

In the course of their comments on pages 176 to 179 the Minority recognise due representation in the services as one of the conditions necessary for the establishment of good communal relations.

As stated under recommendation No. 44, reference on this subject is invited to a memorandum separately presented to the Commission on the subject of the position of the Services.

SOME INSTANCES IN WHICH THE QUESTION OF THE POWERS OF THE GOVERNMENT OF INDIA OF ADMINISTRATION OF OR CONTROL OVER PARTICULAR SUBJECT HAS ARISEN.

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Some instances in which the question of the powers of the Government of India of administration of or control over particular subject has arisen.

Scope of the memorandum.

1. The classification of subjects as central and provincial subjects for the purpose of distinguishing the functions of governments, and the nature of the control which the Governor General in Council may exercise over the administration of provincial subjects, particularly those subjects in which the provincial executive is responsible to the provincial legislature, are matters which raise broad constitutional issues of great importance and which may also necessitate detailed enquiry. It is not proposed on this occasion to discuss general considerations which may govern their decision or to attempt to anticipate what may be the new constitutional conditions in which these matters must take their ultimate shape. But it is desirable to note for the information of the Indian Statutory Commission certain matters in regard to which practice has suggested that the Central Government must possess adequate powers either of direct administration or of control. The account which follows is not intended to be exhaustive of such matters. Its object is to use the experience of certain departments of the Government of India in order to indicate the kind of administrative problem to which the classification and sub-classification of functions has in the recent past given rise.

Roads.

2. Roads are a provincial transferred subject, and the control of the Governor General in Council is limited to the pursuit of the narrow purposes described in Devolution Rule 49. It is true that the Governor General in Council may declare any road to be of military importance and may prescribe in respect thereof the conditions subject to which it shall be constructed or maintained (Devolution Rule 12-A). But generally road development is the concern of provincial Ministers, and no regard has been had in the Devolution Rules to the All-India economic interests which are intimately concerned with it. Taxation on motor transport on the other hand

is partly central and partly provincial and local. Import duties on motor vehicles, parts and accessories and tyres and tubes and import and excise duties on motor spirit and lubricating oil are imposed by the Central Government. Vehicle taxes and miscellaneous demands such as license and examination fees are realized by provincial and local authorities.

The All-India aspects of road development and the possibility of Central control have recently come into prominence. Originally these matters arose as questions of taxation on motor transport. The Taxation Enquiry Committee (Report, paragraph 454) had recommended the abolition of tolls in the case of motor vehicles and their replacement by provincial taxation to be distributed by a road board. " This should be accompanied " they said " if the development of motor transit is not to be hindered by a reduction in the rate of import duty." The Government of India accepted this recommendation so far as to reduce in 1927 the import duty on cars and tyres with the object, among others, of leaving to provincial and local authorities greater scope to increase local taxation on motor traffic with the object of improving road communications.

The popular demand, however, was not for the remission or the substantial reduction of taxation on motor transport. It was claimed that such taxation should be a tax for transport, not on transport; in other words that part, at any rate of the revenue derived from central taxation on motor transport should be earmarked for road development. But proposals regarding road finance, which concern the Central Government as the taxing authority whose revenues are concerned, could not be put forward without some preliminary consideration of the desirability of road development, which is a subject entrusted to the care of Provincial Ministers.

On 9th February 1927 a non-official member of the Council of State moved in that Chamber a resolution urging on the Government of India the necessity of providing funds out of the proceeds of central taxation on motor transport for road development. The resolution in the following form was accepted by Government, namely:—

> " This Council recommends to the Governor General in Council to appoint a Committee, including Members of both Houses of the Central Legislature, to examine the desirability of developing the road system of India, the means by which such development could be most suitably financed and to consider the formation of a Central Road Board for the purpose of advising in regard to and co-ordinating the policy in respect of road development in India."

A Conference of Provincial Ministers and representative of the Department of the Government of India concerned was held and after its concurrence had been obtained, a Committee consisting of

members of the two Chambers of the Indian Legislature was appointed with the following terms of reference:—

(1) to examine the desirability of developing the road system of India, and, in particular, the means by which such development could most suitably be financed; and

(2) to consider, with due regard to the distribution of Central and Provincial functions, whether it is desirable that steps should be taken for the co-ordination of road development and research in road construction, by the formation of a Central Road Board or otherwise.

The Committee has not yet made its recommendations, and it is not possible to foresee what degree of control by the Government of India its proposals will contain or involve. But the circumstances of its appointment indicate clearly the existence of at least two demands, the first for the devotion of central revenues to a provincial purpose, the second for co-ordination of provincial activities in road development. Each of these demands would probably require some amendment of the existing constitution and each would seem to involve the necessity of investing the Central Government with some degree of control of the provincial subject of communication by road.

Inland Waterways.

3. A somewhat similar case is that of inland waterways. These communications are a provincial subject (Devolution Rules, Schedule I, Part II, item 31) except so far as they have been declared by rule made by the Governor General in Council or under legislation by the Indian Legislature to be a central subject. [Devolution Rules, Schedule I, Part I, item 5 (*c*)]. No such declaration has been made, but waterways which connect major ports with the sea in so far as they fall within the limits of the ports are treated as a central subject, as the Ports themselves are a central subject. There is at present no apparent necessity for bringing inland waterways under direct central administration. But the necessity for some degree of control may arise from the fact that inland waterways sometimes pass from one province to another and so afford scope for conflict of interests between two authorities. If such conflict arose there would be convenience if the Central Government occupied a position analogous to that of an arbiter.

The same arrangement might be advantageous in the case of deep sea fisheries if only for the reason that the demarcation of the spheres of local Governments and the distance to which fishing rights extend may present difficulties. Fisheries are a provincial subject, transferred. But deep sea fishing in India is not sufficiently developed to make the question at present one of practical importance.

Treaty obligations of the Central Government as affected by provincial

4. The extent to which provincial export and import duties and excise duties conflict with the treaty obligations of the Central Government has been described in the memorandum on the Financial Relations between the Government of India and the Provincial Governments. There are, however, other directions in which the

exercise of authority conferred upon local Governments may impinge on international obligations undertaken for India as a whole. administration.

India is a party to the Statute on the International Regimé of maritime ports, and has, therefore, undertaken, *inter alia*, to grant to the vessels of every other contracting State equality of treatment with its own vessels, and to levy uniform customs duties in any of its maritime ports and on its other customs frontiers on goods of the same kind, source or destination. Under Article 1 of the Statute all ports normally frequented by sea-going vessels and used for foreign trade are deemed to be maritime ports. This category includes not only major ports, whose administration is a central subject, but also minor ports, all of which are under the administrative control of local Governments. It is, therefore, necessary to secure that the Central Government has sufficient powers of control to ensure that international obligations are fulfilled. At present the classification of minor ports as a provincial reserved subject enables the Government of India to use its general powers of superintendence, direction and control. The position would be different if the subject became a transferred provincial subject, and if the general powers of superintendence, direction and control in the Central Government suffered diminution.

In the case of port health administration the interests to be reconciled are the international obligations undertaken by the Central Government and the administration of public health by provincial ministries. Under the reformed constitution major ports, port quarantine and marine hospitals have been made central subjects, whereas public health and sanitation have been declared provincial transferred subjects, subject to legislation by the Indian legislature in respect of infectious and contagious diseases to such extent as may be declared by any act of the Indian legislature. The trouble arising out of this classification is that the term " port " has a very restricted topographical meaning. A port extends only to a distance of fifty yards above high water mark. The Government of India have thus at present no *locus standi* to enforce in areas adjacent to ports, for example, in the cities of Calcutta and Bombay, the wider measures needed to prevent the ingress or egress of infectious and contagious diseases, and so to fulfil their international obligations in this matter, such as the application to areas outside the ' statutory port limit ' of measures to prevent the egress of infection from British Indian Ports, the supply of information regarding the outbreak of incidence of epidemic diseases to foreign authorities, etc.

But it is not only in the matter of administration that difficulties have arisen. The equitable apportionment of the expenditure on quarantine measures has also been the subject of dispute. The expression " port quarantine " in the Devolution Rules is unqualified, and it is therefore possible for local Governments, if they choose, to throw the whole burden of sanitary measures carried out at ports on Central revenues. The Central Government, on the other hand, might well contend that some at least of the measures

taken under the name of port quarantine are part of the responsibility of the local Government of the province in which the port is situated. An attempt is being made to investigate in detail the exact nature and scope of the quarantine measures taken at present at different ports and to ascertain what modification or amplification of these measures may be necessary in order to conform to the requirements of the International Sanitary Convention of 1926. This investigation may lead to agreement in matters financial. But the difficulties arising from international obligations in the natural port area and the limitation of central administration to the artificial port area as defined in Section 4 (3) of the Indian Ports Act (Act No. XV of 1908) may be capable of solution only by the exercise of some degree of central control over provincial administration of public health in the whole area to which international obligations extend.

Public Health and Medical Education.

5. The embarrassments incidental to the limited control, vested in the Governor General in Council, under Devolution Rule 49, in regard to transferred subjects are illustrated by two cases relating one to Public Health, the other to Medical Education.

In 1927, the Government of India, with the concurrence of local Governments, invited the Far Eastern Association of Tropical Medicine, which devotes itself to the study of tropical diseases and of public sanitation in the tropics, to meet in India. As both medical administration and Public Health are transferred provincial subjects, the local Governments were asked to share with the Central Government the expenses of entertaining the delegates and agreed to make such contribution, subject to the vote of their Legislative Councils. In Bombay, the Legislative Council refused to vote the sum promised by the local Government and the Government of India had ultimately to meet the amount from their own revenues. Not having the power to recover from a provincial Government expenditure incurred on what was clearly a matter of concern to the whole of British India, they had no alternative.

Another example of the difficulties inherent in the administration of subjects which have a natural affinity but which constitutionally are subject to different degrees of control by the Governor General in Council is afforded by the overlapping of the regulation of medical standards and qualifications, which is a reserved provincial subject, and medical education, which is a transferred provincial subject. Over the former, the Governor General in Council has full powers of control over the latter, his powers are limited to matters specified in Devolution Rule 49. In practice, it is impossible, without being able to control standards of medical education, to regulate standards of medical qualifications. The result has been that the Government of India have been able to play no effective part in raising the standards of medical education in certain Indian Universities, the unsatisfactory nature of which has led to the loss of recognition of the medical degrees of these Universities by the General Medical Council of Great Britain.

Industrial Development.

6. The subject of industrial development is one which was vehemently debated when the reformed constitution was being given shape and whose solution at that time has neither given universal satisfaction nor achieved the results which were desired. For many years before the war Indian educated opinion ardently desired the industrial development of the country and consistently urged that Government should take a leading part in furthering that development. The war itself revealed in a striking manner the economic dependence of India on Europe and the necessity of State assistance or State management in the development and the inception of industries. The Government of India were accordingly led in 1916 to appoint the Indian Industrial Commission to examine the possibilities of industrial development and the means by which Government could encourage that development. The Commission presented its report in 1918. They delimited the main activities which, in their view Government should pursue in respect of industries and elaborated the details of the organisations required to carry out a national programme. The scheme was, however, framed on the basis of the system of Government as they know it, and could not take account of the uncertain changes which the authors of the Report on Indian Constitutional Reforms were still considering.

The authors of the Report on Indian Constitutional Reforms devoted considerable attention in paragraph 331 and subsequent paragraphs of the Report to the question of industries. They showed themselves aware of the nature of the proposals of the Indian Industrial Commission and their Report indeed contained a definite affirmation of the principles underlying the Industrial Commission's scheme. It is evident that the view of the authors of the report was that the development of industries which could not be regarded as local should be a central subject, for in the illustrative list of provincial subjects appended to their report the "development of arts and crafts and local industries" was shown as a provincial subject and marked as one which might suitably be transferred. Nevertheless the Report of the Industrial Commission was generally regarded by local Governments as strongly centralizing in tendency. The suspicion with which the report was regarded may be illustrated by the following words of the Madras Government. They wrote:—

> "It would appear from the official summary of the report that the Commission proposes to lay on the Imperial Department of Industries the responsibility for the 'industrial policy of Government and the inauguration and carrying out of a *uniform programme* of industrial development throughout the country.' The functions of the Imperial Government as set out in paragraph 214 of the Commission's report include a duty to 'watch over provincial administration in order to secure the maintenance of a uniform industrial policy.' The expression '*uniform programme*' is somewhat vague and suggests

considerable interference with the programme of provincial Governments. The Madras Government, however, understand that the expresison need not necessarily be interpreted as indicating any intention on the part of the Commission that the Imperial department should interfere otherwise than by suggestion and advice in matters within the competence of the local Government. Mr. Low has informed this Government that the Commission's intention was merely to ensure that one provincial Government should not lag behind the others in industrial development and that if one link in a chain was lacking the Government of India might endeavour to persuade the provincial Government concerned to supply the link or, failing local enterprise, the deficiency might be supplied by the Imperial department. In view of this explanation, the Governor in Council accepts the proposals of the Commission in this respect."

The Functions Committee dealt with the matter briefly in Section 3 of paragraph 45 of their Report and found it impossible to draw any clear line between local and other industries. They therefore recommended the development of industries for transfer. The Government of India, however, who were unwilling altogether to abandon the Industrial Commission's policy, urged in their Fourth Despatch a different course. In the 66th paragraph they took exception to a position in which the Government of India would be debarred from undertaking the direct development of any industry, and in paragraph 116 and the immediately succeeding paragraphs they contended that the Central Government could not possibly divest itself of responsibility for the industrial progress of the country and adduced arguments against the transfer of the subject to the provincial field. The solution which they proposed was that the development of industries, including industrial research, should appear both in the All-India list and in the provincial reserved list with a note to the effect that the fact that the development of any industry or any industrial research was being taken up by the Government of India would not prevent local Governments from also taking it up. These views were traversed in a memorandum presented to the Joint Parliamentary Committee by Mr. Feetham and Mr. (afterwards Sir) Hugh Stephenson. The matter was still further pursued in oral evidence and the decision reached was that now embodied in the Devolution Rules by which a new central subject was created as " Development of industries in cases where such development by central authority is declared by order of the Governor General in Council made after consultation with the local Government or local Governments concerned expedient in the public interest." But the development of industries including industrial research and technical education became a transferred subject in all provinces.

The result was an almost complete divorce of the functions of the central and provincial Governments in respect of industries. In certain cases the Government of India can take action to make

the subject central but this refers, as the context shews, primarily to existing industries of national importance. There was no intention of making the stimulation of new industries a central subject. For some time indeed, the extent of the separation was perhaps (as the Inchcape Committee subsequently suggested) imperfectly realized by Government. A new Department of Industries was created, and for some time made efforts, by means of conferences, publications, etc., to co-ordinate provincial efforts; it also endeavoured to collect industrial information. These activities came to an end with the advent of the Inchcape Committee. Financially the position had already been set out clearly by the Secretary of State who wrote in 1921—

> "There seems to me the strongest reason for avoiding giving colour to the idea that central revenues can properly be devoted (except to the extent which the arrangements for the financing of 'agency functions' may require deviation from this principle) to the financing of any administrative project which is not within the category of 'central subjects'. The financial rules under Section 45-A of the Act do not provide for grants-in-aid by Your Excellency's Government to the provinces for educational or any other purposes, and the continuance of any such relic of the now obsolete financial system would be completely subversive of the whole structure of the division of revenues between the Government of India and the provinces which has been affected by the Act."

The Auditor General, in the following year, pointed out that the Government of India could not provide scholarships for the study of industries while the development of these industries was a provincial transferred subject. The separation was completed by the abandonment, in consequence of the opposition of nearly all the Ministers, of the creation of the proposed all-India services. This made it finally impossible to proceed with the general scheme formulated by the Industrial Commission, and rendered any project for an all-India policy impracticable.

The position was altered, however, in 1924 by the abandonment by the Government of India of the free trade policy which they had pursued in the past and the acceptance by them and the Central Legislature of a policy of discriminating protection. One result was to impose on the Central Government in particular cases a much closer responsibility for the industries of the country than they had ever previously assumed. But the measures taken in pursuance of a policy of protection were *ad hoc* measures whose nature was determined almost entirely by the conclusions reached on the merits of individual cases as presented by the Tariff Board. They were not based, like the scheme of the Industrial Commission's report, on any comprehensive scheme for the industrial development of the country, nor were they in any way co-ordinated with the various measures taken by provincial Governments for the encouragement of industrial development.

It is a matter for detailed enquiry in provinces how far the constitutional arrangements made by the Joint Parliamentary Committee have resulted in that development of the resources of the country which the authors of the Report on Indian Constitutional Reforms recognised as a suitable sphere of Government action. The Government of India do not wish to anticipate the information which the memoranda now under preparation by provincial Governments will doubtless afford. But there is undoubtedly a considerable body of opinion in the country which regards with disfavour the dissociation of the central Government from the important nation-building activity of the development of new industries. For example, the Committee appointed by the Bombay Government to advise on the operations of their Industries Department in their report in 1927 observes:—

> "During the years 1916 to 1918 the Indian Industrial Commission, under the presidentship of Sir Thomas Holland was touring the country, and all subsequent thought and effort in the direction of industrial development in India has been largely affected by the recommendations of that Commission; and this committee is of the opinion that Government cannot do better than follow the general lines of that report. In following its recommendations the first difficulty met with is that the recommendations for action by provincial Governments depend in many vital particulars upon corresponding action by the Central Government, whereas the Central Government have rejected some of the most important of the Commission's proposals. This question assumes great importance when we consider the industries which we can usefully try to develop and the expert assistance necessary for the purpose. The recommendations of the Industrial Commission for the development of industries in the provinces depend upon the Central Government providing two all-India Services, those of industrial chemists and industrial engineers. Our problem would be very much simplified if there were any such central pool of industrial experts upon which we could draw for the supply of men to man a provincial department. No province can afford to employ specialists in every industry which might be developed in that province. But, if a central pool were available, an expert in any particular industry might be taken by the province for a few years only, as was the intention of the Industrial Commission."

On the 5th September 1927, the Hon'ble Seth Govind Das moved a resolution in the Council of State in the following words:—

> "This Council recommends to the Governor General in Council to allot a sum of fifty lakhs per annum for the coming ten years in the annual Budgets for the development of

new industries in India under the direct supervision and control of the Government of India."

He deplored the inadequate progress which had been made in this direction, described the provincial industrial departments as in a moribund condition and saw no salvation until and unless the Government of India intervened. He proposed that funds should be provided by the central Government and recognised that, in consequence, supervision and control should certainly be in its hands. The resolution received a considerable amount of non-official support. It was, however, opposed by Government on the constitutional ground that the development of industries is a provincial transferred subject and also because the provision of a large lump sum is not the right way to develop industries; at present at any rate the best way to improve the industrial development of India is to get rid of the provincial contributions and to enable the provincial departments of Industries to operate with much more funds at their command than they have at present.

The debate in the Council of State indicates, as indeed there are other grounds for contending, that the controversy of 1919 cannot be regarded as a closed issue. The arguments on the one hand that the popular responsible executive in a province should be in charge of a subject in which public opinion is keenly interested and on the other hand that the central Government cannot possibly divest itself of responsibility for the industrial progress of the country have each their own cogency. It is scarcely possible to form conclusions on this without an examination of the results that have been achieved under the existing system, and a descriptive report is under preparation which will deal in some detail with these results.

The results have admittedly fallen far short of those which, if the views taken by the Industrial Commission were well-founded, would have resulted from the adoption of their scheme; but it should not be forgotten that provincial Governments were handicapped to an unexpected extent, particularly in the earlier years, by financial stringency and industrial depression and by the lack of administrative experience which was inevitable on account of the novelty of the subject. Nor can it be assumed that the Government of India would have been able to surmount all the obstacles which have faced local Governments. At the same time the experience of the last decade lends support to those who believe (as the Industrial Commission clearly believed) that no great advance could be achieved by the unco-ordinated efforts of departments working under local Governments on a policy which was not determined by the needs of India as a whole. On the other hand, the transfer of responsibility to provincial Governments in 1920 had behind it the approval of the great bulk of Indian opinion throughout India, and the growth of provincial patriotism since that date makes it unlikely that public opinion generally will be more ready now to accept the more important proposals of Industrial Commission or to agree to any organization of the type which they favoured.

AGENCY.

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Agency.

1. Under Part IV of the Devolution Rules the Governor-General in Council is empowered to employ the agency of the Governor-in-Council in the administration of central subjects in so far as such agency may be found convenient. This memorandum is not intended to supply in any sense an exhaustive account of the use made by the Governor-General in Council of his powers under Part IV of the Devolution Rules, nor does it comprise any general discussion of the manner in which local Governments, on the reserved side, have discharged the agency duties entrusted to them. The memorandum draws upon the experience of the departments of the Government of India under the reformed constitution with a view to indicate problems that have arisen in practice in the utilization of local Governments as agents for the Central Government in the administration of central subjects; and, to illustrate tendencies which have been at work, it records decisions reached in particular cases. The material in the memorandum is arranged in four parts; the first describes the origin of the agency provisions in the constitution; the second states the amendments subsequently made in the rules to meet difficulties which developed in practice; in the third part a brief account is given of the more important steps taken in some departments to eliminate agency functions and substitute direct central control; the fourth and last part of the memorandum touches upon the more general aspects of agency and suggests that agency provisions may be a permanent element of the constitution. In the concluding paragraph reference is made to experiences of the use by the Central Government of provincial Public Works Departments on the transferred side, not under the agency provisions of the Devolution Rules but by arrangement with the Ministers concerned.

The scope of the memorandum.

The origin of the agency provisions in the constitution.

2. In paragraph 213 the joint authors of the Report on India Constitutional Reforms assumed that the entire field of provincial administration would be marked off from that of the Government of India, and in paragraph 238 suggested that the work of demarcation should be entrusted to a Committee appointed for the purpose. When the Subjects Committee was assembled it was supplied by the Government of India with a memorandum from which the following extract of paragraphs 7 and 8 is taken:—

Memorandum supplied to the Subjects Committee.

> " 7. There are certain subjects which are at present under the direct administration of the Government of India. The Government of India maintain separate staffs for their administration and the provincial Governments have no share in it. The category is easily recognisable, and for the most part there will not be much room for doubt

as to the subjects to be included in it. At the other end of the line are matters of predominantly local interest which, however much conditions may vary between provinces, will generally speaking be recognised as proper subjects for provincialisation."

"8. Between these extreme categories, however, lies a large indeterminate field which requires further examination before the principles determining its classification can be settled. It comprises all the matters in which the Government of India at present retain ultimate control, legislative and administrative, but in practice share the actual administration in varying degrees with the provincial Governments. In many cases the extent of delegation practised is already very wide. The criterion which the Government of India apply to these is whether in any given case the provincial Governments are to be strictly the agents of the Government of India, or are to have (subject to what is said below as to the reservation of powers of intervention) acknowledged authority of their own. In applying this criterion the main determining factor will be not the degree of delegation already practised, which may depend upon mere convenience, but the consideration whether the interests of India as a whole (or at all events interests larger than those of one province), or on the other hand the interests of the province essentially preponderate. The point is that delegation to an agent may be already extensive, but that circumstance should not obscure the facts of agency, or lead to the agent being regarded as having inherent powers of his own."

The memorandum then went on to emphasize two points relative to the administration of central subjects through the agency of local Governments. In the first place the Government of India proposed to examine existing conditions with a view to relaxing as far as possible the central control over the agency and to getting rid of any unnecessary limitation on the agent's discretion. This process they distinguished as one of decentralisation not to be confused with the larger purpose of devolution. In the second place, the Government of India considered that it should be recognised that it is within the principal's power to restrict the agency or even to withdraw it altogether, substituting for it direct administration by the Central Government; and that if and when it is proposed to transfer the functions of the provincial agency to the hands of Ministers, this particular question would need careful reconsideration.

A distinction between agency and provincial functions drawn by

3. In paragraph 12 of their Report the Subjects Committee recognised the distinction drawn between the two classes of functions discharged by provincial Governments, namely, agency functions in relation to all-India subjects, and provincial functions properly so called. The Committee then added:—

"The distinguishing feature of the work done in discharge of agency functions is that it relates to subjects in which all-India interests so far predominate that full ultimate control must remain with the Government of India, and that, whatever the extent of the authority in such matters for the time being delegated by the Government of India to the provinces as their agents, it must always be open to the Government of India to vary the authority and, if need be, even to withdraw the authority altogether." the Subjects Committee.

4. The distinction between agency subjects to be administered or partially administered by provincial Governments and provincial subjects properly so called was definitely accepted by the Government of India in paragraph 5 of the Fourth Reforms Despatch dated the 16th April 1919. Their comments in that paragraph indicate the nature of the pre-Reform administrative conditions in their bearing upon the new demarcation of agency subjects under the reformed constitution. And accepted by the Government of India.

".....The provinces have in the past been administering some matters, as for example, customs and income-tax, in which the predominant interests of the Government of India are beyond question. They have also done much work on behalf of the Government of India in such matters as the railways and the post office. In respect of these functions we may conveniently describe the local Governments as acting in the capacity of agents of the Government of India. Beyond these matters, however, there has been a wide category of subjects in which no attempt has hitherto been made to measure either the interest or the inherent authority of the provincial Governments. In the case of some of them, such as the police and criminal justice, there is no denying the close interest inevitably felt by the Central Government which is responsible for the security of India. In others the need for maintaining external trade, or of securing uniformity in matters affecting the interests of commerce or industry between one part of India and another, have operated to give the Central Government a close concern in certain other matters in the provinces. In other cases again the distribution of power between the central and provincial Governments has rested mainly upon the criterion of convenience."

The Government of India observed that the effect of section 45 of the Government of India Act had been to obscure whatever differences of kind could be traced in all these various cases; and, further, the purely administrative control provided by section 45 had been reinforced by or concealed behind the close control over expenditure enforced by the various codes which resulted both from the system of divided heads of revenue, and by the particular

responsibility of the Central Government and the Secretary of State for economy in administration. Under the reformed constitution most of these financial restraints would disappear, but in so far as they had been used to mask the administrative control, their removal made it all the more important to decide the principles on which administrative control should in future be exercised. The Government of India then added—

> " We agree with the Committee that..... there should be a difference between what we may call agency subjects and all other subjects which are provincial without being also transferred. In respect of the former it clearly must be in the competence of the principal to vary, or even to withdraw the authority delegated to his agent."

Section 45-A (c) of the Government of India Act and Part IV of the Devolution Rules.

5. In accordance with these recommendations provision was made in clause (*c*) of section 45-A of the Government of India Act of 1919 for rules to be made " for the use under the authority of the Governor-General in Council of the agency of local Governments in relation to central subjects in so far as such agency may be found convenient, and for determining the financial conditions of such agency ".

When submitting draft rules subsequently adopted as Part IV of the Devolution Rules, the Government of India suggested that it was only the official half of the provincial Government which should be required to act as the agent of the Central Government (Devolution Rule 46). It did not seem consistent with the position which Ministers would hold under the new constitution that they should be compelled to undertake work for the Central Government, but this of course would not preclude an amicable arrangement by which departments controlled by Ministers might undertake work for the Government of India. For instance, the construction and upkeep of buildings of the Central Government might be made over to the provincial Public Works Departments, and the Government of India felt confident that the Ministers would be willing to lend their assistance in all such cases. In recognition of the more independent position which provincial Governments would in future occupy, the distribution of the cost of a joint establishment was made a matter for agreement between them and the Central Government (Devolution Rule 48).

The addition of item 52 to Part II of Schedule I to the Devolution Rules.

6. Subsequently, the attention of the Government of India was drawn to the fact that many Acts, for example, the Indian Ports Act and the different Port Trusts Acts, conferred administrative powers on local Governments in regard to what would be central subjects under the reformed constitution. As the Devolution Rules stood it would not be possible to say whether " the local Government " in such Acts would mean the Governor-in-Council or the Governor acting with his Ministers, since the term " local Government " could be interpreted only with reference to the classification of subjects, and Schedule I contained no reference to matters pertaining to a central subject in regard to which local Govern-

ments exercise powers conferred by or under a law. The Government of India apprehended that serious difficulties might arise if powers vested by law in local Governments for the administration of what would be central subjects were exercised by Ministers not subject to their control. At their suggestion therefore a new item 52 was inserted at the end of Part II of Schedule I to the Devolution Rules in the following terms:—

> 52—Matters pertaining to a central subject in respect of which powers have been conferred by or under any law upon a local Government.

The addition of this item to the list of provincial subjects had the desired effect of making the Governor-in-Council the local Government in regard to these matters. It led, however, to difficulties, to be described in the next part of this memorandum, the solution of which was ultimately found in the cancellation of item 52 and the amendment of the Devolution Rules by the insertion, among other changes, of rule 46-A.

II.

Early difficulties in the working of the rules met by their amendment.

The first amendment in 1921 of rule 14 (1) (*b*) of the Devolution Rules.

7. Difficulties arising out of item 52 first came to notice in 1921 in matters connected with the salt administration. Under item 11 of Part I of Schedule I of Devolution Rules, salt is a central subject, but the imposition of duty on salt manufactured in or imported by land into Burma was by virtue of section 7 of the Burma Salt Act, 1917, a matter pertaining to the central subject of salt in respect of which powers had been conferred by law upon the local Government of Burma. It followed, therefore, that the imposition of such a duty was a provincial subject under item 52 of Part II of the schedule, and that receipts accruing from such a duty were receipts accruing in respect of a provincial subject within the meaning of rule 14 (1) (*b*) of the Devolution Rules which at that time read in the same terms as the rule now in force, namely, that receipts accruing in respect of provincial subjects are allocated as sources of provincial revenue. For the same reason other miscellaneous receipts under the provincial Salt Acts of Bombay, Madras, Bengal and Burma would also require to be treated as sources of provincial revenue. On the other hand, elsewhere than in Burma, the duty on salt is imposed by the Governor-General in Council under section 7 of the Indian Salt Act, 1882; and item 52 in Part I of Schedule I of the Devolution Rules had therefore no application. The position was obviously anomalous and involved a possible risk of loss to central revenues in other similar cases. The alternative then was either to cancel item 52 or to amend rule 14 (1) (*b*). The Government of India at that time considered it essential to retain item 52 for the reasons given in paragraph 6 above which had led them to recommend its adoption; they there-

fore suggested the amendment of rule 14 (1) (*b*) of the Devolution Rules by the substitution of the words " receipts accruing in respect of any provincial subject other than a subject specified in entry 52 of Part II of Schedule I ". This suggestion was accepted by the Secretary of State and the amended rule came into force by virtue of a notification published on the 3rd October 1921.

The omission in 1924 of item 52 ; the insertion of a new rule 46-A ; and the restoration of the former text of rule 14 (1) (*b*).

8. The amendment of Devolution Rule 14 (1) (*b*) counteracted the unforeseen consequence of item 52 in converting what had hitherto been sources of central revenue into sources of provincial revenue: it left untouched the effect of item 52 on central and provincial expenditure. This aspect of the case, however, came to notice in 1923 in connection with the construction of a quarantine station at Bombay for the detention of horses imported from the Persian Gulf. The construction of a quarantine station for that purpose was a matter pertaining to the central subject of port quarantine in respect of which powers had been conferred on the local Government under section 4 (1) of the Live-Stock Importation Act, 1898. It was held that, unless the rules were amended, the cost of the quarantine station would necessarily, though inequitably, fall upon provincial revenues, though in similar circumstances central revenues had borne the cost, for instance, of the provision of hospitals for infectious patients arriving at ports.

The whole question was then brought under examination. In addition to the anomalous position in matters of expenditure arising out of item 52, it was felt to be unsatisfactory that central subjects should come under the control partly of the Indian and partly of the local legislature, that is to say that where a local Government dealt with a central subject under law or by statutory rule (and the subject therefore to that extent became a provincial reserved subject) the local legislature would have a right to intervene by way of question and resolution. In effect a local Government administering a central subject on behalf of the Government of India would lead a species of double life: if it did an act covered by any law or statutory rule, it would do so as the administrator of a provincial reserved subject; if it did an act not so covered, it would do so as the agent of the Governor-General in Council. To withdraw from local Governments all powers vested in them by statute for the administration of what were now central subjects would have involved the comprehensive amendment of numerous Acts, and on the other hand the exercise of particular powers by local Governments was in some cases administratively convenient. It was decided therefore to proceed by an amendment of the rules, and by a notification dated the 19th November 1924—

(*a*) the old reading of rule 14 (1) (*b*) of the Devolution Rules was restored;

(*b*) a new rule 46-A was inserted in Part IV of the Devolution Rules—Agency to the effect that where in respect of a central subject powers have been conferred by or under any law upon a local Government, such powers shall be exercised by the Governor-in-Council;

(*c*) the wording of rule 47 was amended, and

(*d*) item 52 in Part II of Schedule to the Devolution Rules was cancelled.

These amendments, while they ensure that powers in respect of a central subject conferred by or under any law upon a local Government shall be exercised by the Governor-in-Council, at the same time purport to establish the position that the exercise of those powers by the Governor-in-Council is an agency function in the administration of a central subject discharged by the local Government on behalf of the Government of India.

III.

Steps taken in the direction of centralisation.

The two classes of agency functions (*a*) by virtue of powers statutorily vested in local Governments; and (*b*) purely administrative.

9. The extract from the Fourth Reforms Despatch quoted in paragraph 4 of this note serves in some degree to indicate the absence in the conditions prior to the Reforms of a marked dividing line between the administrative functions respectively of the central and provincial Governments in matters in which the interest was primarily the interest of the Central Government: income-tax and customs were both cited in the Despatch as subjects administered by the provinces in which the predominant interest lay with the Government of India. The passing of the Government of India Act of 1919 led to a delimitation for the first time of central and provincial subjects. It was recognised, however, that this classification of subjects could not be accompanied by an equally clear delimitation of functions to secure the direct administration by the Central Government of all central subjects; in some matters it was convenient on practical grounds that functions of administration should continue to rest with the local Governments; in others in which direct control by the Government of India might appear to be more appropriate to the changed relations between central and provincial authority, time must necessarily elapse before the requisite arrangements could be made. The situation was therefore met by the provision in the Devolution Rules empowering the Governor-General in Council to employ the agency of the Governor-in-Council of any province in the administration of central subjects in so far as such agency may be found convenient; but, as stated in Part I of this memorandum, emphasis was laid both by the Subjects Committee and by the Government of India on the power which must be reserved to the Government to vary or to withdraw the authority delegated to its agent.

The introduction of the reformed constitution was not followed by any series of orders issued by the Governor-General in Council in the exercise of his powers under Devolution Rule 46: and, except that the financial powers of local Governments in agency matters were defined by executive orders, the agency position of the provincial Governments was left to establish itself by practice. The functions discharged by provincial Governments in the ad-

ministration of central subjects were sharply divided into two classes; in the first place, functions the exercise of which was vested in the provincial Governments by or under any law, and, secondly, functions discharged by provincial Governments under purely executive arrangements. As described in Part II of this memorandum the first class of functions were at first classified as provincial reserved subjects in order to ensure their administration by the reserved half of the provincial Governments on behalf of the Government of India. The defects of this arrangement early came to light and resulted in the amendment of the Rules described in paragraph 8 of this note. As stated therein the alternative of withdrawing from local Governments all powers vested in them by statute for the administration of what were now central subjects was considered and rejected, on the ground that the exercise of particular powers by local Governments was in some cases administratively convenient. In other words it was felt to be out of the question to undertake comprehensive legislation,* the converse of the Devolution Act, by which powers vested in the local Governments in respect of central subjects might have been transferred to the Government of India. The resumption of these powers, where desirable, could be the result only of a gradual process of centralisation governed in each instance by considerations of administrative convenience and the requirements of the case.

Similar considerations have applied to the resumption by the Government of India of agency functions discharged by local Governments under executive arrangements dating for the most part from the period before the reforms and left undisturbed; any immediate break with past practice was impracticable.

In this part of the memorandum an attempt is made to give some account of the progressive steps which have been taken to substitute direct control by the Government of India in place of agency administration by provincial Governments either (*a*) by depriving the provincial Governments of powers vested in them by statute and transferring those powers to the Central Government, or (*b*) by resuming executive powers hitherto left with the provincial Governments.

The Indian Income-Tax Act, 1922.

10. The first agency subjects to be centralised were generally speaking those which left the collection of central revenues to the agency of local Governments: and among them income-tax was the first to be subjected to the process of eliminating the powers and functions of local Governments.

On the 19th September 1921 the Finance Member introduced in the Legislative Assembly a Bill to consolidate and amend the law relating to income-tax and super-tax. The law then in force provided that local Governments should frame rules under the Income-Tax Act, and interpret and administer the Act. Sir Malcolm Hailey explained to the House that the Government of India had found a very general feeling throughout India that the making

* *Vide* paragraph 36 of the Sketch of the operation of the Constitution in the Central Government.

of rules, the administration of the Act, and the interpretation of the rules should be kept in the hands of a central body. It was felt on many important points that there should be an identical procedure throughout India. There was dissatisfaction that the law as interpreted by a large number of chief revenue authorities in the provinces had led to conflicting decisions. The Government of India proposed therefore to centralise the administration of the Income-tax law and to issue all rules thereunder from the Government of India itself. The Finance Member warned the Assembly that if the Government of India were to carry out this work effectively it would be necessary to appoint some central income-tax authority of their own. In the Statement of Objects and Reasons attached to the Bill attention was drawn to the position under the reforms scheme and particularly item 52 of Schedule I of the Devolution Rules at that time still in force, as a reason for omitting from the Bill any reference to the powers of the local Governments. The consolidating and amending Bill was passed into law as the Indian Income-Tax Act, 1922. Under the provisions of the Act a Board of Inland Revenue was constituted as the chief income-tax authority, consisting of one or more persons appointed by the Governor-General in Council; similarly the Act provided for a Commissioner of Income-tax for each province to be appointed by the Governor-General in Council, who is however required to consider any recommendation made by the local Government; and for the appointment by the Commissioner of Income-Tax, subject to the control of the Governor-General in Council, of a separate staff for the administration of the Act. The new Act centralising the administration of income-tax, and making other changes with which this memorandum is not concerned, came into force on the 1st April 1922.

The Central Board of Revenue Act, 1924.

11. The customs administration was the next subject to be centralised. Under the system inherited from the period before the Reforms and continued under the agency provisions of the Devolution Rules the principles adopted for assessing various articles for duty had come to vary from port to port, and discrepant rulings had been given by various customs authorities or local Governments. It was clear that in the interest both of the Government of India and of the commercial community a central co-ordinating authority was urgently needed. Not only would the classification of articles for tariff purposes tend to assume a more scientific character under the control of a central authority, but the risk of loss of revenue through faulty assessment would be greatly reduced. A further consideration which weighed heavily with the Government of India was the need for terminating the arrangement by which the customs budget was prepared by the various local Governments. Now that the Budget had to be justified item by item before the Legislative Assembly, and the approval of the Assembly had to be obtained to the expenditure proposed, it was felt to be essential that the customs budget should be prepared by an officer working directly under the Government of India and in the closest possible touch with them. In 1921 the Government of India stated

the problem as they viewed it to the maritime local Governments and invited an expression of their opinion both on the advisability of centralising the customs administration and on a suggestion that for the supervision of the work a Controller-General of Customs should be appointed under the direct control of the Government of India.

The opinions expressed by the local Governments concerned supported both proposals, namely that the customs administration should be centralised and that it should be placed under a Controller-General directly under the orders of the Central Government; further action was however deferred pending the recommendations of the Indian Retrenchment Committee. In their report the Committee recommended that the scope of the Board of Inland Revenue established under the Indian Income-Tax Act, 1922, should be enlarged so as to include customs, salt and opium and, so far as the Central Government was concerned with those subjects, excise and stamps. This recommendation was accepted by the Government of India and it was decided to place the administration under the control of a Board of two members, which should absorb the existing Board of Inland Revenue. The new Board was brought into being by a resolution of the Government of India, No. 1376, dated the 10th November 1923, and legislation was at once undertaken to give the Board full authority to perform the functions which it was intended to discharge. A Bill was introduced in the Assembly early in 1924; it was passed by both chambers of the Indian legislature; and came into force as the Central Board of Revenue Act on the 1st April 1924. It was explained in the Statement of Objects and Reasons attached to the Bill that the constitution of the new Board had a double reason; in the first place, to relieve the Government of India Secretariat of detailed administrative control, and secondly to centralise the administration of the Customs Department, which was described as a natural consequence of the clearer delimitation under the Reforms scheme of the respective spheres of the central and provincial Governments.

The Salt Law (Amendment) Act, 1925.

12. Further legislation was required for the centralisation of salt and opium. The Salt Law (Amendment) Act, 1925, was passed in the Indian legislature with the object of transferring the control of the Salt Departments in Bombay and Madras from the local Governments to the Government of India working through the Central Board of Revenue. In anticipation of this measure the Salt Department had been separated from the Excise Department in the Madras Presidency and Bombay Presidency excluding Sind. This legislation made the Collectors of Salt Revenue subordinate to the Central Board of Revenue instead of to the local Governments.

The Opium (Amendment) Act, 1925.

13. Lastly, steps were taken in 1925 to terminate the agency of the Government of the United Provinces in regard to the administration of the Opium Department. With the passage of the Opium (Amendment) Act, 1925, the Opium Department, which controls the cultivation of the poppy and the manufacture of opium

on behalf of the Government of India, came entirely under the direct control of the Government of India.

Limitations on the centralisation of income-tax, customs and salt.

14. As a result of these changes, the agency functions of local Governments, whether exercised by or under any law or under executive arrangements in force under the provisions of Devolution Rule 46, in the administration of the subjects of income-tax, customs, salt and opium have now been almost entirely eliminated. The exception to this process of centralisation are briefly that income-tax is still administered in Assam and in one or two other scattered localities by officers of the provincial Governments subject to the provisions of the Income-Tax Act, 1922. Local Governments possess certain powers over the cadre of income-tax officers in provinces where the subject has been centralised. At a few minor ports the customs administration is discharged by the local Government on behalf of the Government of India, and general coast-guard duties on behalf of the Customs Department have been left with the local Governments. In Bengal, Bihar and Orissa and Assam, where the manufacture of salt is not permitted, preventive work is in the charge of local Governments on behalf of the Central Government. These exceptions, and the list is not intended to be exhaustive, indicate some of the directions in which it has been found convenient, while centralising the administration of income-tax, customs and salt, to retain the agency assistance of local Government. It is only in the case of opium that the centralisation of the administration has been complete.

The centralisation of ports and shipping.

15. While these changes were taking place, the attention of the Government of India was occupied with problems relating to merchant shipping with the result that in this direction also definite steps have now been taken in the direction of a centralisation of the administration. The list of central subjects in Schedule I to the Devolution Rules includes (1) shipping and navigation; (2) lighthouses; (3) port quarantine and marine hospitals; and (4) ports declared to be major ports. As the law stood when the reforms were introduced the statutory authority for the administration of ports and shipping was vested almost entirely in the local Governments. With the clearer delimitation of central and provincial subjects the resultant position was soon found to be defective. It was natural that provincial Governments should regard matters arising for decision from the provincial point of view, and there was risk that wider interests might suffer. It was felt to be essential for Indian commerce that the law relating to merchant shipping should be administered uniformly and according to the highest international standards, and that unless direct control were undertaken, the Central Government would remain at a disadvantage in enforcing observance of its international obligations, the responsibility for which rested upon itself.

The Ports and Shipping Conference, 1924.

16. The whole problem was discussed at a Conference held in Delhi in November 1924 which was attended by representatives of the local Governments, the Chairmen of the Port Trusts of the major ports, Port Officers and Port Health Officers as well as by

representatives of the Departments of the Government of India concerned. As a result of the discussions which ensued, the Government of India decided that

(1) shipping and navigation, and

(2) lighthouses

should be administered direct, and that legislation should be undertaken so as to vest the necessary statutory powers in the Governor-General in Council; and, incidentally, that *pari passu* with this transfer, an adequate technical staff should be established to advise the Central Government in the administration of those subjects. They also decided that the question of the major ports, about which there was some difference of opinion, should be reconsidered later when experience of the central administration of other subjects had been gained. Port Quarantine, which is closely connected with the sanitation of the port generally, is also under separate consideration.

The Indian Lighthouses Act, 1927.

17. The first steps have now been taken to bring this policy into effect. In February 1927 the Government of India introduced the Indian Lighthouses Bill in the Council of State in order to make legal provision for the lighting of the coasts of India to be administered as a single unit under the direct control of the Government of India. The Commerce Secretary explained to the House that the Bill was the first instalment of a larger scheme for the centralisation of the administration of the Shipping Acts and mercantile marine affairs generally, and indicated the haphazard manner in which the present system of lighthouse administration had grown up in the different provinces. After consideration by a joint select committee of both houses, the Bill was passed by the Council of State on the 2nd September 1927 and by the Legislative Assembly on the 14th September 1927.

The Indian Merchant Shipping (Amendment) Act, 1928.

18. The passing of the Indian Lighthouses Act was followed by the introduction in the Legislative Assembly on the 1st February 1928 of the Indian Merchant Shipping (Amendment) Bill. This Bill simply transferred to the Governor-General in Council the powers vested in the local Governments under the provisions of the Indian Merchant Shipping Act, and is for that reason a particularly interesting example of the resumption by the Central Government of powers vested by law in local Governments for the administration of a central subject. The Bill contained provision empowering the Governor-General in Council by notification to delegate to any local Government any or all of his powers under the Act, either absolutely or subject to such conditions or restrictions as he may think fit. It was passed by the Legislative Assembly on the 19th March 1928 and by the Council of State on the 22nd March 1928.

The centralisation of the control of major ports deferred.

19. The administrative changes which will result from these two measures will now be brought into effect. The assumption of direct central control of the major ports is a more complicated matter. It would probably not be possible for the Central Government to exercise the detailed statutory control over distant ports

which is now exercised by local Governments, and the considerable widening of the powers of Port Trusts, which would be a necessary preliminary to centralisation, would require careful legislation; the Government of India have therefore decided that their soundest course is first to gain experience of the direct administration of shipping matters before taking steps to centralise the supervision of the major ports. But though the question of replacing agency administration by central administration in the case of major ports has been deferred, in the case of the port of Chittagong, however, which has recently been declared a major port, the Government of India have taken over the statutory control of the administration of the port as it was considered desirable that the future development of the port should be co-ordinated with the development of the Assam Bengal Railway.

It is worth while mentioning that both the Indian Lighthouses Act and the amended Indian Merchant Shipping Act contain provision for the central authority to be assisted in its administration by representative advisory committees resting upon a statutory basis. The committees will enable the Central Government to balance the advice of their expert technical staff with the views of the interests affected by any proposals that may be made.

IV.

Other Aspects of Agency.

The policy in particular subjects adopted to suit their administrative requirements.

20. The more important directions in which a policy of centralisation has been pursued have now been described. It would not, however, be correct to assume that the instances which have been given represent steps in any deliberate policy either of eliminating agency functions generally or of resuming powers vested in local Governments by or under any law for the administration of a central subject. We have seen that even where a subject has been selected for centralisation, for example, salt, administrative functions are still discharged by local Governments on behalf of the Central Government, for instance preventive work in the provinces where the manufacture of salt is not permitted. Moreover, against the resumption by the Central Government of statutory powers vested by law in local Governments under the Indian Merchant Shipping Act, 1923, there may be set the example, for instance, of the Indian Cantonments Act, 1924, which expressly extended the powers of local Governments to supervise and control the administration of cantonments. In another class of cases, local Governments have been left their statutory powers, but their use has been brought under more close control. For instance, since the expenditure incurred on account of persons detained under the powers conferred on the local Government by the Madras and Bombay State Prisoners Regulations is a charge on central revenues, the Government of India require local Governments to obtain their

approval before bringing the provisions of those regulations into operation.

Where a policy of centralisation has been adopted, it has been based soley upon the administrative requirements of the subject. No abstract proposition to the effect that when a subject is central, its administration should on that account be centralised has been applied.

The administrative considerations vary in each case. Thus it is a convenience to the Central Government at present that local Governments should retain powers under the Indian Companies Act, 1913, and even in recent legislation, for instance, the Indian Cantonments Act, 1924, cited above, they have been vested with statutory powers, though the subject is a central subject. In some cases the centralisation of one subject hangs upon the centralisation of another. Under the Indian Emigration Act, 1922, Protectors of Emigrants and Medical Inspectors are appointed by the local Governments. Whatever might be the advantages of employing for those duties officers directly appointed by the Central Government, the change could not be made in present circumstances without greatly increased expense, unless and until shipping and port quarantine were centralised and the services of officers of the Government of India employed on duties in connection with those subjects were available for the discharge of duties under the Indian Emigration Act, should that arrangement eventually be found to be convenient. Census and Statistics are a central subject: and in the conduct in particular of the decennial census of the population of India local Governments discharge agency functions which it would be almost impossible for the Central Government to undertake directly without their assistance. The subject of explosives is one which it would be extremely difficult for the Central Government to administer directly without incurring expenditure greatly in excess of the present scale. In this instance the provincial Governments are remunerated not by direct payments from the Central Government, but by being allowed to retain fees which have strictly accrued to the Central Government. This procedure is financially somewhat irregular, but is being continued for the time being pending any general revision of the Devolution Rules which may result from the recommendations made by the Commission.

Provincial courts are concerned with the punishment of all offences, and the judicial work affecting central subjects is not an agency function of local Governments. Legal work which they may undertake on behalf of the Central Government rests, however, on a different footing and special arrangements have been made with certain local Governments to regulate the contribution to be made from central revenues for work done for the Government of India by provincial law officers. The particular problems of the use of agency of the Governor-in-Council for the administration of Indian States not in direct relations with the Govern-

ment of India have been discussed in a memorandum separately presented to the Commission.

Agency possibly a permanent element of the constitution.

21. To sum up, the experience gained of the reformed constitution suggests that the reasons which in 1919 made necessary the inclusion in the constitution of provision for the discharge by local Governments of agency functions on behalf of the Central Government still hold good: and any complete centralisation of the administration of all central subjects would be as impracticable now as it would have been in 1919. Further, it may be that it would be unsound to regard agency discharged by provincial Governments on behalf of the Central Government as in any sense a merely transitional element in the constitution of Government in the country. The terms and conditions of such agency functions may vary to suit new constitutional forms, but it might well be argued that, under any form of constitution and apart even from the practical convenience of agency functions in particular subjects, the retention of this form of association between the Central and the provincial Government may be broadly beneficial to each, and therefore desirable, subject always to the administrative requirements of the subject in question.

The use made of provincial Public Works Departments on the transferred side.

22. This note would not be complete unless it contained some reference to a subject outside the scope of agency in the sense in which the term is employed in the Devolution Rules, namely, the use made by the Government of India of provincial departments on the transferred side. In Part I of this memorandum an account was given of the reasons which prompted the Government of India to suggest that agency functions, properly so called, should be restricted to the official half of the provincial Governments and attention was drawn to the comment made at the time by the Government of India that this would not debar amicable arrangements being entered into with Ministers should the Government of India desire to make use of departments under their control.

This question of an amicable arrangement with Ministers has arisen most prominently in the matter of the use made by the Government of India of provincial Public Works Departments (Roads and Buildings) on the transferred side, except in Assam where the subject is still reserved. The Central Government has no public works establishment of its own for carrying out works in the provinces, and at present depends almost entirely on assistance from the local Governments. The procedure ordinarily adopted is that, with the permission of the Ministers, the officers of the local Government prepare the plans and estimates in consultation with the officers of the (central) administrative department concerned, and submit their proposals to the Government of India for scrutiny. When the scheme has been sanctioned, the execution of the work is left to the provincial Governments, who are supplied with funds for the purpose. In return for the services rendered they are paid ' establishment rates ' on a *pro rata* basis varying from 18 per cent. in the Punjab to 27 per cent. in the Bombay Presidency, calculated on the total outlay incurred on the various major heads of account.

This system, however, has been found to have its drawbacks. In the first place it rests entirely with local Governments whether to undertake the work; and some are reluctant to do so. In 1922 the Government of the United Provinces intimated that they were no longer prepared to undertake any Public Works Department work on behalf of the Central Government except major works and requested that other arrangements should be made for the execution of other work of less importance. On the receipt of this intimation the Government of India transferred all buildings of the Central Government in the United Provinces to the heads of the Central Departments concerned and made arrangements for them to receive the professional advice and assistance, when necessary, of the Delhi Public Works Department. Similar arrangements have also recently been made in the case of the central works in the Punjab where heads of Central Departments have the professional advice and assistance of the Superintending Engineer, Simla Imperial Circle. A second objection to the present system is that the Central Government is virtually without powers of control, and has not always been entirely satisfied with the execution of work done on its behalf by provincial Governments.

On the other hand the maintenance of an establishment to look after buildings of the Central Government scattered over wide areas would inevitably cost more than the present arrangement. The whole question of the arrangements to be made is at present under the consideration of the Government of India.

In the Archæological Department similar arrangements had been entered into with provincial Governments for the conservation of protected monuments. The Department however have, as an experiment, been doing their own conservation work themselves in selected areas, mainly because it does not seem necessary to utilise the services of highly trained engineer officers for the work.

PROPOSED LEGISLATION TO DEBAR THE COURTS FROM PREMATURE INTERFERENCE WITH THE LEGISLATURES.

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Proposed Legislation to debar the Courts from premature interference with the Legislatures.

Injunction issued by the Calcutta High Court on the President of the Bengal Legislative Council; the Council prorogued, July 1924.

1. On the 24th March 1924, the Bengal Legislative Council adopted a motion by 63 votes to 62 for the total omission of the provision for the Ministers' salaries from the grant for General Administration. The Ministers remained in office without salary under the idea that the Council would be given an opportunity to reconsider its decision at a session of the Council to be held in the following July.

In the list of business for the July session of the Council, dated the 30th June 1924, and circulated to all members of the Council, there was included a motion by the Finance Member of the Government of Bengal for a sum of Rs. 1,71,000 to be granted for expenditure under the head 22—General Administration (Transferred) on account of the salaries of the Ministers. On the 3rd July an application under section 45 of the Specific Relief Act was filed in the Calcutta High Court by a member of the Bengal Legislative Council praying for an order directing the President of the Council to decide upon the admissibility of this motion and to disallow it, or to forbear from putting the motion at the session of the Legislative Council which was to begin on the 7th July. In effect the appli-

cant asked for the issue of a writ in the nature of a writ of mandamus. It was alleged in the petition that the motion could not be presented to the Council because of the provisions of rule 32 of the Bengal Legislative Council Rules; and it was urged both that clause 1 of sub-rule 1 could not apply, because the demand for grants on account of the salaries of Ministers had been rejected *in toto*, and that clause 2 of the same sub-rule could not apply, because the estimate did not relate to expenditure necessary upon some new service not contemplated in the budget. This application was argued before Mr. Justice Ghose on July 4th. Orders dismissing the application were passed on the 7th July, the date fixed for the meeting of the Council. Among other grounds, the Judge's reasons for dismissing the application were that no injury was threatened to the applicant within the meaning of proviso (*a*) to section 45, and that there had been no demand by the applicant and no denial by the President within the meaning of section 46 of the Specific Relief Act.

In the meantime a suit dealing with the same matter had been filed in the High Court on the 4th July in which two members of the Legislative Council were the plaintiffs and the President and the two Ministers were the defendants; in connection with this suit an application was made for a temporary injuction restraining the President from putting the motion to which reference has been made above and restraining the Ministers from discharging any duties as Ministers or receiving any salary. This application was argued in the High Court on the 7th July, and on the same day Mr. Justice Ghose delivered his orders. He dismissed the application so far as the Ministers were concerned, but issued an injunction against the President, including in that term the Deputy President and panel Chairmen, restraining them from putting the motion in question pending the final determination of the suit. A copy of Mr. Justice Ghose's order is attached as Appendix I to this memorandum. It was held in the order that the Court had full jurisdiction to try the case on the grounds that—

(*a*) the suit was of a civil nature, and unless its cognizance were barred, the Court had jurisdiction to try it;

(*b*) that the only provision in the Government of India Act which excluded the jurisdiction of the High Court was section 110 which did not apply to the President who was subject to the jurisdiction of the Court;

(*c*) that rule 32 of the Bengal Legislative Rules was exhaustive, and did not permit the presentation to the Council of a demand for salaries for the Ministers which had been rejected in the previous session;

(*d*) that the President is required to conduct the business of the Council in accordance with the rules, and was therefore not competent to allow facilities for a motion which the Court held to be contrary to the rules;

(*e*) that the word "final" in rule 15 of the Bengal Legislative Rules relating to the decision by the President of points of order does not exclude the jurisdiction of the Courts, nor does it conclude the matter; it refers merely to decisions within the Council;

(*f*) that as tax-payers the plaintiffs possessed sufficient interest to give them the right to sue for relief.

The Court held that the relief asked for was in the nature of what in England would be described as a *Quia Timet* Bill for which there are two necessary ingredients; if no actual damage is proved, there must be proof of imminent danger, and there must also be proof that the apprehended damage, if it comes, will be substantial and irreparable. The Court had no doubt of the imminence of the danger, and no doubt that if the motion were allowed to be put and were adopted by the Council, the damage which would ensue would be substantial and irreparable.

When the Council met on the 7th July immediately after the issue of its order by the Court, the President announced the prorogation of the session by His Excellency the Governor.

Amendment of the Indian Legislative Rules and of the Rules of the Provincial Councils approved by the Secretary of State; the suit against the President withdrawn.

2. An appeal was at once filed against the injunction granted by Mr. Justice Ghose, and in the meantime the Government of Bengal consulted the Government of India as to the course which they should adopt. It was decided that it would be desirable *ex-majore cautela* to make an immediate amendment of the Legislative Rules. The sanction of the Secretary of State was obtained by telegram, and a Gazette Extraordinary was published on the 21st July, amending both the Indian Legislative Rules and the Legislative Council Rules of the several provinces by notifications dated the 19th July 1924 which are reproduced in Appendix II to this note. When the appeal came up for hearing in the Calcutta High Court, agreement was reached by the Counsel who were appearing for the respective parties that the discussion of the various matters which had been raised and which would be raised in the hearing of the appeal had become academic, with the exception of the question whether the Judge sitting on the original side had jurisdiction to grant the interlocutory injunction. It was agreed that the suit should be withdrawn, a statement being made by the Advocate-General that in view of the announcement in the Gazette of India Extraordinary he did not think it reasonable to ask the Court to proceed with the hearing of the President's appeal; at the same time he desired it to be understood that he was prepared to proceed with the appeal and argued points which were raised in it, and that he did not abandon any of the contentions which had been set up on behalf of the President. After protecting his position in that way, the Advocate-General made it clear that he did not think it reasonable that the time of the Court should be occupied in hearing the appeal. The result, therefore, was that the suit was withdrawn and that the appeal of the President and the

other appeals and applications were dismissed by order of the High Court dated the 22nd July 1924.

3. The Reforms Enquiry Committee assembled in the first week of August 1924, and submitted its report in December 1924. In paragraph 91 of its report it discussed the powers, privileges and immunities of members of the legislatures, and in the course of its examination of those matters observed that:— Recommendation No. 4 of the Reforms Enquiry Committee.

> "..... It is common knowledge that recently one of the High Courts was moved to intervene and did in fact intervene for the purpose of preventing a President from putting a certain motion to the council. An appeal for the purpose of deciding whether the Court had jurisdiction to issue an injunction on the President was disposed of on other grounds, and unfortunately the question is still unsettled, except in so far as it has been answered in the affirmative by a single judge. We have no hesitation in recommending that the matter should be placed beyond doubt, and that legislation should be undertaken either in England or in India barring the Courts from premature interference with the Presidents of the councils. We do not of course suggest that the Courts should be debarred from deciding on the validity of any action already taken in the legislatures."

This recommendation was approved in chapter X of the Minority Report.

4. The recommendation of the Reforms Enquiry Committee has since been considered by the Government of India in consultation with the Secretary of State, and it has been agreed that the legislatures should be free to perform their own functions in accordance with the Government of India Act, the Rules and the Standing Orders, as interpreted and applied by their own authorities. The President, however, is not the only authority. The Governor-General, Governor and Lieutenant-Governor have also wide powers of selection, arrangement and disallowances of all classes of business. Members of Government have considerable powers; and even ordinary members have powers or rights to promote business and to determine whether such business shall go forward or not. To free a legislature from premature interference by the Courts it is necessary to protect all these powers and rights, in order thereby to avoid any risk of a temporary or permanent injunction preventing, for instance, a member of Government from moving a grant or introducing a Bill, or a private member from moving a resolution or an amendment. The Secretary of State has agreed that under the law as it now stands this object can be best secured by the draft amendments of sections 67, 72D and 78 of the Government of India Act shown in Appendix III to this memorandum. Since, however, the question raised is one of some constitutional importance, it has been decided to reserve it for consideration by the Statutory Commission. The recommendation supported and its scope extended by the Government of India in agreement with the Secretary of State; but reserved for consideration by the Statutory Commission.

APPENDIX I.

Order dated the 7th July 1924, passed by the Hon'ble Mr. Justice Ghose in suit No. 1846 of 1924 (Ordinary Original Civil Jurisdiction) of the Calcutta High Court.

SUIT NO. 1846 OF 1924.

IN THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

ORDINARY ORIGINAL CIVIL JURISDICTION.

Before:

The Hon'ble MR. JUSTICE GHOSE.

The 7th July, 1924.

Kumar Shankar Roy Chowdhury & Anor.

Vs.

The Hon'ble Mr. H. E. A. Cotton & Ors.

The Court.—This is an application on behalf of the plaintiffs for an order that the first defendant, the Honourable Mr. Cotton, who is the President of the Bengal Legislative Council, may be restrained from putting a certain Motion, being item no. 6 in the Printed List of Business, before the Bengal Legislative Council at its Session which commences to-day at 3 P.M. and for an order restraining the second and third defendants, the Honourable Mr. Fazl-ul Huq and the Honourable Mr. Ghuznavi, who are the Ministers in charge of the Departments of Education & Agriculture of the Government of Bengal, from discharging any duties as Ministers, or receiving any payment of salary and for such other or further order as to this Court may seem fit and proper.

This application has been brought on immediately after the delivery of my judgment this morning in the matter of the application under section 45 of the Specific Relief Act on the part of Mr. J. M. Sen Gupta, praying for an order on Mr. Cotton directing him to disallow the said motion. For the reasons given by me I dismissed that application. But the questions raised on the present application are of such great importance, raising, as it does, difficult questions of constitutional law and procedure which might be carried to the highest tribunal that it would have been more convenient if I were enabled to deliver a considered and written judgment. I felt that my decision might have the effect of creating a serious constitutional crisis and that in these circumstances there were two courses open to me—(1) that instead of

making an interlocutory order of the description asked for, I should try out the suit in which the present application has been made within 10 days from date, or (2) that this application should be dealt with by me on Wednesday next, it being understood that whichever course was adopted, the President of the Bengal Legislative Council should stay his hands meanwhile. The learned Advocate-General informed me however that arrangements had been made, whatever that might mean, so that the said item no. 6 might be put as the very first item of business before the Legislative Council this afternoon, and that it was impossible to interfere with the order of business as it was one which was sanctioned by His Excellency the Governor of Bengal. I was not satisfied that the order of business could not be altered, and I accordingly desired the learned Advocate-General to ascertain if it was not possible for His Excellency to give the necessary directions in this behalf, assuming that a matter like this was not within the competence of the President. It is now 2-15 P.M., and I have not been informed as yet of the result of the enquiry that I desired to be made. The matter is of very great urgency and I must therefore proceed to judgment.

The facts giving rise to the present application are more or less the same as were raised on the application of Mr. Sen Gupta for a Writ of Mandamus. Those facts will be found set out in the judgment which I delivered this morning and it will therefore not be necessary for me to repeat the same again in this judgment. I desire, therefore, that so far as the facts are concerned, my judgment in the case of Mr. Sen Gupta may be read as part of this judgment. This course is rendered all the more necessary because of the shortness of time at my disposal.

The substantial point that has been argued before me on the present application is whether, having regard to the provisions of section 72D of the Government of India Act and of Rule 94 of the Bengal Legislative Council Rules and Standing Orders, it is competent to the President of the Bengal Legislative Council to put the said item no. 6 before the Bengal Legislative Council at its meeting which takes place this afternoon for the consideration of the members of the Council. Another equally important point which has been the subject of debate before me is that whether on the facts of this case this Court has any jurisdiction to make an order of the description asked for on the President of the Legislative Council. The said item no. 6 runs as follows:—

SUPPLEMENTARY DEMANDS FOR GRANTS.

22.—General Administration (Transferred).

The Honourable Mr. J. Donald to move that a sum of Rs. 1,71,000 be granted for expenditure under the head "22—General Administration (Transferred)" on account of salaries of the Ministers.

The first question that I have got to decide is whether this Court has any jurisdiction to interfere in this matter. Now, the clause of the Government of India providing for exemption from the jurisdiction of the High Courts runs as follows:—

"110. The Governor-General, each Governor, Lieutenant-Governor and Chief Commissioner and each of the members of the executive council of the Governor-General or of a Governor or Lieutenant-Governor and a Minister appointed under this Act, shall not—

(*a*) be subject to the original jurisdiction of any High Court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor

(*b*) be liable to be arrested or imprisoned in any suit or proceeding in any High Court acting in the exercise of its original jurisdiction; nor

(*c*) be subject to the original criminal jurisdiction of any High Court in respect of any offence not being treason or felony."

There is no other provision in the Government of India Act or any rules made thereunder excluding the jurisdiction of the High Courts. The learned Advocate-General has contended that Parliament in passing the Government of India Act and in constituting Legislative Councils thereunder, has kept in view the English constitutional principle, namely, that the Legislature is supreme and that neither the judiciary nor the executive should interfere in any way with the conduct of business in the Legislative Councils, and that having regard to the provisions of Rule 15 of the Bengal Legislative Council Rules and Standing Orders, the decision of the President of the Legislative Council on a point of order (and it is argued that the point raised in the present application is a point of order) is final and that it is not open to question in a Court of Justice. I am perfectly aware of the fact that in England the Legislature is supreme, but what I have to consider on the present application is not whether the English Parliament is supreme, but whether the Bengal Legislative Council, which is a subordinate legislature and a creation of Parliament, is supreme in the sense contended for by the learned Advocate-General and whether the jurisdiction of the High Court, so far as the President of the Bengal Legislative Council is concerned, is excluded by statute or judge made law or by implication. If I have no jurisdiction to entertain this suit, it would be obviously improper for me to express any opinion on the merits of the questions, discussed before me, though that discussion was necessary before I could determine the issue as to jurisdiction (*cf.*—Pritchard *v.* Mayor, etc. of Bangor, 13 A. C. 241). In my view, the question now before me does not really relate to the powers of the local Legislature; but if it did I have no doubt that it would have been a legitimate subject of discussion in this Court, and I am prepared to hold that the proceedings of a subordinate Legislature like the local Legislature can be

questioned in this court (see in this connection the observations of Jenkins, C. J. in Hari *v.* Secretary of State for India, I. L. R. 27 Bom. 424 at p. 439). But as I say the substantial question is whether the President of the Council is immune from the jurisdiction of this Court. This Court is a superior Court of Record and *prima facie* no matter is deemed to be beyond the jurisdiction of this Court, unless it is expressly shown to be so. By the word "jurisdiction" is meant the authority which the Court has to decide matters that are litigated before it, or to take cognizance of matters presented in a formal way for its decision.

Now, this is a suit of a civil nature and in the Civil Procedure Code it is provided that the Courts shall have jurisdiction to try all suits of a civil nature, but from this rule are excepted "suits of which cognizance is barred by any enactment". As stated above, there is nothing in the Government of India Act to exclude the jurisdiction of this Court. The President of the Bengal Legislative Council is appointed under the provisions of section 72C of the Government of India Act, the present President being a person appointed by His Excellency the Governor. He is the holder of an office created by statute and nothing has been shown to me during the course of the argument, which can remotely suggest that the President of the Bengal Legislative Council is immune from the jurisdiction of this Court. As was observed by Bailhache J. adopting the statement of the law by the Attorney-General, Sir Richard Webster, if any person, whether an officer of State or a subordinate, has to justify an act alleged to be unlawful by reference to an Act of Parliament or State authority, the legal justification can be enquired into in this Court (see China Mutual Steam Navigation Co., Ltd. *v.* Maclay, 1918, 1 K. B. 33, at p. 41). Therefore, in my opinion, a suit can lie against the President of the Bengal Legislative Council.

The learned Advocate-General referred to the impolicy of interfering with the discretion vested in the President of the Legislative Council. I have nothing whatsoever to do with questions of policy, and as regards interfering with the discretion vested in the Legislative Council, the point raised really begs the whole question.

I now proceed to consider the substantial question raised before me on the construction of the provisions of the Government of India Act referred to above and of Rule 94 of the Bengal Legislative Council Rules and Standing Orders, and I think it will be convenient if, at this stage, I set out the material sections of the Government of India Act. The first section to which I need refer is section 52 of the Act, which runs as follows:—

"52. The Governor of a Governor's province may, by notification, appoint Ministers, not being members of his executive council or other officials, to administer 'transferred' subjects, and any ministers so appointed shall hold office during his pleasure.

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council

in that province, unless a smaller salary is provided by vote of the Legislative Council of the province.

No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature."

The next section of the Act to which reference may be made is section 72C which runs as follows:—

"72C. There shall be a president of a Governor's legislative council, who shall until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the Governor, and shall thereafter be a member of the Council elected by the Council and approved by the Governor:

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session."

Section 72D, upon which the controversy has raged runs as follows:—

"72D. (1) The provisions contained in this section shall have effect with respect to business and procedure in Governor's legislative councils.

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the Council in the form of demands for grants. The council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed:

Provided that—

(*a*) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a 'reserved' subject, and the Governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and

(*b*) the Governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department; and

(*c*) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the Governor, communicated to the Council."

Now these provisions relating to the business and procedure in Governor's Legislative Councils mark a great advance in the direction of parliamentary methods, particularly in conceding the right to vote " supplies ". There is to be an annual statement of estimated expenditure and revenue and the proposals of the local governments for the appropriation of provincial revenues and other moneys in any year are to be submitted to the vote of the Council in the form of demands for grants. The Council may assent or refuse its assent to a demand or may reduce the amount demanded either by a reduction of the whole grant or by the omission or reduction of any of its items. A proposal for appropriation of revenue is not to be made except on the recommendation of the Governor, communicated to the council. The voted " grants " only cover the kind of expenditure which in England is made out of " moneys provided by Parliament." It is also provided in section 72D that certain charges of a special or recurring character, which are set out in the section itself, are outside the range of voted " grants." This distinction will be recognized by every student of constitutional history as corresponding roughly to the English distinction between " charges on the votes " and " charges on the Consolidated fund." So far the procedure is based on English practice; but the Executive Government is given exceptional powers of authorizing expenditure in case of need. If a demand relates to a Reserved subject and the Governor certifies that the expenditure is essential to the discharge of his responsibility for the subject, the local government has power in relation to any demand to act as if it has been assented to, notwithstanding the withholding of the assent or the reduction of the amount asked for. The Governor also has power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province or for the carrying on of any department. The provisions of this very important section are left to be worked out in detail by statutory Rules and Standing Orders. The Standing Orders are to supplement the Rules and must not be inconsistent with them. They are to be made in the first instance by the Governor-in-Council, but may be altered by the local legislative council with the assent of the Governor.

These being the provisions of the Government of India Act, to which it is necessary for me to refer for the purposes of this judgment, I now turn to the Rules and Standing Orders made in virtue of the authority conferred by the Act. Elaborate provisions are made in the Rules and Standing Orders for the conduct of business in the legislative councils.

In Rule 14 the limitations on debate are set out and in Rule 15 it is provided that the President shall decide all points of order, which may arise and that his decision shall be final. It is also provided that any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

Rule 21 provides that a list of business for the day shall be prepared by the Secretary and shall be circulated to all members and that no business not included in the list of business for the day shall be transacted at any meeting without the leave of the President.

Rule 37 indicates the procedure to be followed by which motions can be brought forward before the Legislative Council.

Rule 38, which has been so often referred to before me, runs as follows:—

" Except as otherwise provided in the Rules, the President shall decide on the admissibility of a motion. The President may disallow any motion when in his opinion it does not comply with the Rules or Standing Orders."

Rule 39, which is also equally important, runs as follows:—

" A motion must not raise a question substantially identical with one on which the council has given a decision in the same session."

Rule 70 relates to the moving resolutions and power is given by Rule 71 to His Excellency the Governor to disallow any resolution or any part of a resolution.

Rule 85 runs as follows:—

" A statement of estimated annual expenditure and revenue of the province (hereinafter referred to as the budget) shall be presented to the council on such day as the Governor may appoint."

Rule 87 runs as follows:—

" (1) A separate demand shall ordinarily be made in respect of the grant proposed for each department of the Government, provided that the Finance Member may, in his discretion, include in one demand grants proposed for two or more departments, or make a demand in respect of expenditure, such as Famine relief and Insurance and Interest, which cannot readily be classified under particular departments. Demands affecting reserved and transferred subjects shall, so far as may be possible, be kept distinct.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant, divided into items.

(3) Subject to these rules, the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Council."

The next Rule to which I need refer is Rule 88, which is in these terms:—

" The Budget shall be dealt with by the Council in two stages, namely:—

(1) a general discussion; and

(2) the voting of demands for grants."

Rule 89 is in these terms:—

"(1) On a day to be appointed by the Governor subsequent to the day on which the Budget is presented and for such time as the Governor may allot for this purpose, the Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the Council.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches."

Rule 90 runs in these terms:—

"Not more than twelve days shall be allotted by the Government for the discussion of the demands of the local Government for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at 5 o'clock the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants."

The next Rule which I need refer to is Rule 91 which runs as follows:—

"No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council.

(2) Motions may be moved at this stage to omit or reduce any grant or any item in a grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

(4) No motions shall be made for the reduction of a grant as a whole until all motions for the omission or reduction of definite items within that grant have been discussed."

Rule 92 runs as follows:—

"If the local Government or the Governor exercises the power conferred by section 72D (2), provisos (*a*) and (*b*), of the Government of India Act in regard to demands refused or reduced by the Council, the Finance Member shall, as soon as may be thereafter, lay on the table of the Council a statement showing the action under section 72D (2), proviso (*a*), with a copy of the certificate granted by the Governor, but no motion may be made in regard to that action."

Rule 93 runs as follows:—

"When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member, and shall be dealt with in the same way by the Council as if it were a demand for a grant."

Rule 94 is in these terms:—

"(1) An estimate shall be presented to the Council for a supplementary or additional grant when—

(*i*) the amount voted in the budget of a grant is found to be insufficient for the purposes of the current year; or

(*ii*) a need arises during the current year for expenditure for which the vote of Council is necessary upon some new service not contemplated in the budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants."

The real controversy has raged round the provisions of Rule 94, which I have just set out, taken along with the provisions of section 72D of the Government of India Act. It is contended, having regard to the facts which are set out in my judgment in the matter of the application of Mr. Sen Gupta, that it is not competent to Mr. Cotton to include in the agenda the motion which stands in the name of the Hon'ble Mr. Donald. The argument is put in this way. It is contended that before the financial year commences, a statement of the estimated annual expenditure and revenue of the province has got to be placed before the Legislative Council, that is to say one statement of the estimated annual revenue and expenditure, commonly called the "Budget" has got to be placed before the Legislative Council. The provisions in the Budget relating to the appropriation of revenues and other moneys must be submitted to the vote of the Council in the form of demands for grants. A particular demand for the grant of salaries of the ministers having been once rejected by the Legislative Council at its meeting held on the 24th March, 1924, it is argued that it is not now competent to the Government to put forward a fresh demand for the grant of salaries to ministers, unless that demand can be brought within the four corners of Rule 94 of the Bengal Legislative Council Rules and Standing Orders. It is also pointed out that having regard to the plain and unequivocal language of Rule 94, the supplementary demand for grant of salaries to Ministers, in respect of which Mr. Cotton has admitted Mr. Donald's motion, can never be included within the category of demands referred to in Rule 94 and that this Court, therefore, has undoubted jurisdiction to prevent the President of the Bengal Legislative Council from allowing such a demand to be put before the Council.

I have already indicated that in addition to Mr. Cotton there are two other defendants in this suit, namely the two ministers.

As regards the ministers, I desire to say at once that I am not satisfied on the grounds which have been urged before me that so far as this application is concerned, there is any reason for asking for any order against the ministers at this stage. I must, therefore, dismiss the present application, so far as the ministers are concerned.

On behalf of the Hon'ble Mr. Cotton I have heard an elaborate address by the learned Advocate-General and he has submitted the following propositions for my consideration:—

(*a*) That in disposing of the present application against Mr Cotton I should follow the same principles as were followed by me in the application for the writ of mandamus.

(*b*) That the present plaintiffs have not been able to satisfy the Court that they have made any demand whatsoever on Mr. Cotton and that Mr. Cotton has distinctly determined to refuse the demand of the plaintiffs.

(*c*) That the plaintiffs have failed to satisfy the court that they have any interest whatsoever in this matter which is likely to be injured by Mr. Cotton putting Mr. Donald's motion before the Bengal Legislative Council this afternoon.

(*d*) That the President of the Bengal Legislative Council has under the rules complete discretion in the matter and that having regard to the provisions made in the Rules and Standing Orders for points of order being raised by members of the Council and having regard to the express provisions of Rule 15, this court will not interfere with the President in the discharge of his duties.

(*e*) That there is nothing whatsoever in the Government of India Act or in the Legislative Council Rules and Standing Orders to prevent a motion for appropriation of provincial revenues for a particular object being made at any time before the Legislative Council, provided it is in compliance with the provisions of Rule 39.

The learned Advocate-General in concluding his observations pointedly drew my attention to section 52 of the Government of India Act and contended that having regard to the events that had happened, namely, the total refusal of the salaries of the Ministers at the meeting of the Bengal Legislative Council held on the 24th March, it was competent to His Excellency the Governor to direct that there should be paid to the Ministers whose salaries had been refused by the Legislative Council, the same salaries as were payable to the members of His Excellency's Executive Council and that it was not really necessary to bring forward again any demand for grant of salaries to the Ministers and that if His Excellency has given directions for a motion for appropriation of revenues to be brought forward in the manner indicated in item 6 in the agenda, it was because His Excellency desired to show very cour-

tesy to the members of the Bengal Legislative Council and because as a constitutional ruler he was anxious to give the members of the Legislative Council a further opportunity to consider the matter.

With reference to these last observations of the learned Advocate-General, I desire to say at once that the question he has indicated is not before the Court at the present moment, and I refuse to pronounce any opinion on the legality or otherwise of the action which may be taken to pay to the Ministers whose salaries had been refused by the Legislative Council the same salaries as are payable to the members of His Excellency's Executive Council. It is not my province, nor is it my remotest desire, sitting here in this Court, to refer to any action that has been taken or that may be taken by His Excellency the Governor of Bengal. I am not concerned with any discussion about His Excellency's acts, and I must enter my protest against any reference being made in my Court to the same.

I now proceed to consider Mr. Advocate-General's arguments, and in considering them I shall first take up for discussion his argument under head (*e*). I am wholly unable to accede to the learned Advocate-General's argument that a proposal for appropriation of provincial revenues can be made at any time before the Legislative Council. The principle underlying section 72D of the Government of India Act is, as I understand, as follows:—

'A figure in an estimate once passed by the Legislative Council cannot be altered, except as provided by the statutory rules. If therefore Government subsequently find that any item has been inadvertently omitted from the demand for grants, or that demands which could not be foreseen at the time of presenting the Budget have since arisen, or that the provision made for any item is likely to prove insufficient, the same formality has to be gone through as in the case of the original demands and Government has to make a fresh demand known as a supplementary or additional demand and submit a fresh estimate to the Legislative Council. That such should be the case is only natural, considering the fact that the original estimates are framed from 6 to 18 months in advance of the actual occurrence of the facts and the nature of the charges for which provision has to be made is so vast and varied. As Colonel Durell points out in his book on Parliamentary Grants, Chapter 1, p. 49—" It is a sound principle, that one, *and only one*, estimate of national expenditure should be laid before Parliament during each session; for to render parliamentary control effectual, it is necessary that the House of Commons should have the money transactions of the year, presented to it *in one mass and in one account*." Supplementary estimates are always looked upon with particular jealousy by popular legislatures, because they tend to diminish the control of the legislature, and if for large sums, really amounts to a breach of contract between the government and the legislature. (If authority is needed for this statement as a matter of constitutional practice, reference may be made to the speech made by Mr. Austen Chamberlain in the House of Commons in August, 1921,

where he described supplementary estimates as the weak joint in the armour of any government).

The Advocate-General lays very great stress upon the provisions of Rule 39. Now this Rule 39 is taken from the Rules and Standing Orders of the House of Commons and if Mr. Advocate-General's contention was correct, then there would be nothing to prevent a coach and four being driven, to use the words of Lord Justice Bowen, through this Act of Parliament. And in my opinion it is because the framers of the Rules and Standing Orders under the Government of India Act desired to follow with scrupulous care the English Parliamentary practice as regards the Budget Heads of Expenditure and Revenue and the demands for grants or supplies that they did not omit to insert in the said Rules and Orders a provision for Supplementary or additional grant. This provision is to be found in Rule 94 and, therefore, the conclusion is irresistible that save and except what is provided for in section 72D of the Government of India Act and Rule 94 of the Rules and Standing Orders, there cannot be made any demand for grant even if His Excellency the Governor makes a recommendation for appropriation of the provincial revenues on occasions not provided for in the said section and the said Rule. The learned Advocate-General drew my attention to the Report of the Joint Committee of the Houses of Parliament on Mr. Montagu's Bill. My duty sitting here to-day is to construe the provisions of the Act; but since the matter has been raised, I desire to observe that I am very familiar with the whole of the literature on the subject of the Government of India Act including the Report of the Joint Committee and I say that there is no warrant to be found anywhere for the proposition, which has been strenuously maintained by the learned Advocate-General. The authorities on this question of constitutional practice such as Sir Courtenay Ilbert, Sir Erskine May, and Lord Courtnay, are all against the view contended for by Mr. Advocate-General, and I do not, therefore, propose to pursue the matter any further.

I now take up for consideration Mr. Advocate-General's contention under head (*d*). If I am correct in the view which I have taken, namely, that Mr. Donald's motion for a supplementary grant is in the circumstances of the present case entirely opposed to the provisions of the statute (see the provisions of Rule 94 of the Rules and Standing Orders) then it follows that the President of the Council, who is required to conduct the business of the Council in accordance with the provisions of the law in that behalf, is not competent to allow any facilities to Mr. Donald to bring forward such a motion. In other words, Mr. Cotton has no jurisdiction to admit Mr. Donald's motion under the provisions of the Government of India Act and under the provisions of the Rules and Standing Orders. Mr. Advocate-General has strongly relied upon the provisions of Rule 15. Rule 15, in my opinion, does not exclude the jurisdiction of this Court. It is a rule by which the members of the Bengal Legislative Council are bound, and as I read the rule, it means nothing more or less than this, that when the President

has given his decision on a point of Order, his decision is final, so far as the members of the Council are concerned, and that it cannot be questioned by anybody within the Council. If anybody within the Council questions the President's decision on a point of Order, the President's powers are ample and he knows how to enforce his decision. The presence of the word " final " in Rule 15 does not, as I have said above, exclude the jurisdiction of this court, nor does it conclude the matter. It is a word which is to be found in numerous statutes; sometimes it has been held with reference to the context in which it appears that the word " final " means *final* for all purposes, and excludes the jurisdiction of the courts; sometimes it has been held that notwithstanding the existence of the word " final " the jurisdiction of the courts is not excluded. There are numerous decisions on this point, and, if time permitted, I could give illustrations from a long catena of cases decided in this court. Mr. Advocate-General refers to the affidavit which has been put in by Mr. Cotton, and asks me not to interfere with the President in the discharge of his duties. By instinct and training I am opposed to any interference with the President of a legislative body in the discharge of his duties, but it seems to me in this case that Mr. Cotton has had abundant opportunities of deciding on the legality or otherwise of Mr. Donald's motion, and he has not chosen to tell me through the mouth of his Counsel what his decision is. If the matter rested purely on the discretion of the President, it is clear that the court would hesitate to interfere, although in England it has been held that if there is an outrageous exercise of discretion by a public officer, the court will not hesitate to interfere. In my opinion, however, no question of discretion arises in this case: the law is clear; and Mr. Advocate-General has been forced to admit that Mr. Donald's motion is wholly inadmissible under Rule 94 of the Rules and Orders. But Mr. Advocate-General tries to get out of the difficulty by suggesting that Rule 94 requires an " estimate " and that inasmuch as no " estimate, " within the meaning of Rule 94, has been presented before the Bengal Legislative Council, Mr. Donald's motion is therefore not hit by Rule 94 of the Rules and Orders. In parenthesis I may observe that Mr. Advocate-General stated that no estimate has been presented under Rule 94, because the " estimate " had been presented on a previous occasion, namely, at the meeting of the Legislative Council held in March last. There is really no substance in this. The " estimate ", such as it was, was presented at a different session of the Council; the session which is about to commence to-day is a new session, and this in itself is a sufficient answer. But I do not propose to pause here. Mr. Donald's motion is headed by the framer with an eye to its inclusion under Rule 94, and I cannot allow the consideration of this very important question to be obscured by reference to the want or otherwise of an " estimate ". To do so would really amount to juggle with the Act, if I may be allowed to use the expression. I now proceed to discuss Mr. Advocate-General's points under heads (*b*) and (*c*). This is a representative suit instituted by the present

plaintiffs. Leave under Order I, Rule 8, C. P. C., has been given to the plaintiffs to sue on behalf of themselves and all others who pay Government revenue or pay taxes. The "interest" which Mr. Sen Gupta in his application failed to show, is in the present plaintiffs and it is sufficient to sustain them to maintain this suit [see in this connection the judgment of Tyabji and Parsons J. J. in the case of Vaman *v.* Municipality of Sholapur, I. L. R., 22 Bom. (644)]. The present plaintiffs have, in my opinion, made a sufficient demand on Mr. Cotton; Mr. Cotton would not be here through his counsel before me if a demand had not been made, and I am satisfied on the contentions raised on behalf of Mr. Cotton that he has refused to comply with the demand. As I have already said in the other judgment, it is not necessary to use the word "refuse" or any equivalent to it; refusal may be inferred from conduct, and on the facts of this case, I think the plaintiffs are not wrong when they say that there has been a refusal on the part of Mr. Cotton. That being so, it is necessary to consider whether the plaintiffs would be injured by Mr. Cotton, putting the motion, being item No. 6 in the Agenda, before the Bengal Legislative Council, at its meeting this afternoon; and secondly, what is the extent of the imminence of danger which will induce the Court to make an order in favour of the present plaintiffs. The present action is what in England would be described as in the nature of a *Quia Timet Bill*. It is a very old head of Equity Jurisdiction and according to Story, it has been traced back to so early a period as the reign of Edward IV. These *Quia Timet Bills* are in the nature of Writs of Prevention, to accomplish the ends of precautionary justice and are ordinarily applied to prevent wrongs or anticipated mischiefs and not merely to redress them when done. There are two necessary ingredients for a *Quia Timet* action. There must, if no actual damage is proved, be proof of imminent danger, and there must also be proved that the apprehended damage will, if it comes, be very substantial and irreparable, *i.e.*, it must be shown that if the damage does occur at any time, it will come in such a way and under such circumstances that it will be impossible for the plaintiff to protect himself against it, if relief is denied to him in a *Quia Timet* action (see in this connection Fletcher *v.* Bealey 28, Ch. D. 688). The power is entirely discretionary; it is a large power and I have ever present in my mind Lord Mansfield's caution that the greater the power, the more cautious must be the exercise of it. Time is pressing and I am unable to develop all the points which are passing through my mind, because Mr. Advocate-General has desired an immediate decision. I must say, however, this that on both heads, the plaintiffs have been able to satisfy me that this is a fit and proper case for the exercise of my discretion. There can be no doubt of the imminence of danger having regard to the conclusions at which I have already arrived. That there will be substantial damage and irreparable, within the meaning of the Rule laid down above, it is impossible to doubt. No doubt there is the possibility of the motion being not accepted, but there is also the possibility of the motion being accepted by the Council.

In these circumstances, when the various considerations are so balanced and when the motion itself is in complete violation of the spirit and letter of the Government of India Act and of the Rules made thereunder, it is my obvious duty to protect the plaintiffs by a temporary order till the suit is heard. In these matters the Court, in the exercise of its discretion, is under an obligation to take large and liberal views, so that the rights of the subject may be preserved and the constitution as laid down by the Government of India Act safeguarded by such means as are in the power of the Court. The right to vote supplies is perhaps the greatest privilege accorded to a legislative body and any infraction of the Rules and Regulations guarding the provision as to the voting of supplies is an "injury" which the plaintiffs in a representative suit are entitled to be protected from. The Advocate-General has reminded me that it is open to the Legislative Council to flout my order. This is a region of controversy into which I will not enter; the occasion has not arisen for me to consider this question; it may never arise; and speaking for myself, it will never arise. Therefore, so far as Mr. Advocate-General's points under heads (*b*) and (*c*) are concerned, I am against him, and I am in favour of the plaintiffs.

There now remains for me to consider Mr. Advocate-General's point under head (*a*), namely, that in disposing of the present application I should follow the same principles as were followed by me in the application for the Writ of Mandamus. I have read and re-read, during the last two days, the case to which Mr. Advocate-General has drawn my attention, namely, the case of the Bank of Bombay *vs.* Suleman, 12 Calcutta Weekly Notes, p. 825. To a certain extent the contention is correct so far as it goes; but I am by no means prepared to say that in disposing of an application for an injunction, my powers sitting here on this side of the court are wholly circumscribed by the rules laid down in section 45 of the Specific Relief Act. I have given to this matter my very best and most anxious consideration within the time at my disposal, and I have come to the conclusion that the plaintiffs having made out a *prima facie* case I really have no other alternative but to make an order restraining Mr. Cotton, the President of the Bengal Legislative Council, within which expression are included the persons mentioned in page 238 of the Bengal Legislative Council Rules and Standing Orders, from putting the said item No. 6 before the Council for its consideration, until the final determination of this suit. The costs of this application, so far as Mr. Cotton is concerned, will be costs in the cause. So far as the Ministers are concerned, the application will stand dismissed with costs.

I have now discharged my duties as Judge; but perhaps in view of the public importance of this case, I may venture on one observation; I do not disguise from myself that it is a serious thing to have to interfere with the President in the discharge of his duties. But the law, as I conceive it to be, requires my interference. In my opinion, the Rules and Standing Orders require revision, in the light of the events which have happened. I ex-

press no opinion on the political situation brought about in March last, but I only desire to express the hope that the constitution will be placed on a firm and enduring foundation.

C. C. GHOSE.

APPENDIX II.

NOTIFICATIONS NOS. F.-76-I-24-A. AND F.-76-I-24-A. C., DATED THE 19TH JULY 1924, AMENDING RULE 50 OF THE INDIAN LEGISLATIVE RULES AND RULE 32 OF THE LEGISLATIVE COUNCIL RULES OF GOVERNORS' PROVINCES.

NOTIFICATION FROM THE LEGISLATIVE DEPARTMENT, NO. F.-76-I-24-A., DATED THE 19TH JULY 1924.

In exercise of the powers conferred by sub-section (1) of section 67, read with sub-section (1) of section 129-A. of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to direct that the following further amendments shall be made in the Indian Legislative Rules, namely:—

In Rule 50 of the said rules—

(*a*) After sub-rule (1) the following sub-rule shall be inserted, namely:—

"(2) An estimate may be presented to the Assembly for an additional or supplementary grant, in respect of any demand to which the Assembly has previously refused its assent, or the amount of which the Assembly has reduced."

(*b*) Sub-rule (2) shall be renumbered (3).

NOTIFICATION FROM THE LEGISLATIVE DEPARTMENT, NO. F.-76-I-24-A. C., DATED THE 19TH JULY 1924.

In exercise of the powers conferred by sub-section (5) of section 72-D., read with sub-section (1) of section 12-A. of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to direct that the following further amendments shall be made in the Madras, Bombay, Bengal, United Provinces, Punjab, Burma, Bihar and Orissa, Central Provinces, and Assam Legislative Council Rules, namely:—

In rule 32 of the said rules—

(*a*) After sub-rule (1) the following sub-rule shall be inserted, namely:—

"(2) An estimate may be presented to the Council for an additional or supplementary grant in respect of any

demand to which the Council has previously refused its assent, or the amount of which the Council has reduced either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed."

(*b*) Sub-rule (2) shall be renumbered (3).

APPENDIX III.

DRAFT AMENDMENTS OF SECTIONS 67, 72-D. AND 78 OF THE GOVERNMENT OF INDIA ACT, 1919.

Proposed new sub-section (8) to section 67 of the Government of India Act.

" (8) Notwithstanding anything contained in any law for the time being in force, no person in whom powers are vested by or under this Act for the regulation of the course of business or for the preservation of order in either chamber of the Indian legislature, or for the conduct of business, the determination of the procedure to be followed or, generally, for the determination of any question relating to the selection, arrangement or performance of business therein,

and no member of either of the said chambers, acting in the exercise of any rights conferred upon him by or under this Act and relating to the business of the said chambers,

shall be subject to the jurisdiction of any court in respect of the exercise of such powers or rights."

Proposed new sub-section (8) to section 72-D of the Government of India Act.

" (8) Notwithstanding anything contained in any law for the time being in force, no person in whom powers are vested by or under this Act for the regulation of the course of business or for the preservation of order in a governor's legislative council or for the conduct of business, the determination of the procedure to be followed or, generally, for the determination of any question relating to the selection, arrangement or performance of business therein,

and no member of such council, acting in the exercise of any rights conferred upon him by or under this Act and relating to the business of the said council,

shall be subject to the jurisdiction of any court in respect of the exercise of such powers or rights."

Proposed new sub-section (5) to section 78 of the Government of India Act.

" (5) Notwithstanding anything contained in any law for the time being in force, no person in whom powers are vested by or under this Act for the determination of any question relating to the selection, arrangement or performance of business in the legislative council of a lieutenant-governor or a chief commissioner,

and no member of such council, acting in the exercise of any rights conferred upon him by or under this Act and relating to the business of the said council,

shall be subject to the jurisdiction of any court in respect of the exercise of such powers or rights."

THE SYSTEM OF ADMINISTRATION IN THE NORTH-WEST FRONTIER PROVINCE.

The System of Administration in the North-West Frontier Province.

Constitution of the North-West Frontier Province.

The North-West Frontier Province was constituted with effect from the 9th November, 1901, by the Government of India, Home Department, Proclamation No. 5780 of the 25th October 1901. By that proclamation His Excellency the Viceroy and Governor General in Council took the five districts of Peshawar, Kohat, Hazara, Bannu and Dera Ismail Khan under his immediate authority and management and entrusted their administration to a Chief Commissioner. The Chief Commissioner is also the Agent to the Governor General for those areas which, lying between the five administered districts and the border of Afghanistan and forming part of India, are nevertheless not part of British India. It is, however, only the five districts lying within British India which technically constitute the Frontier Province and with which this note deals.

Legislative Arrangements.

2. Prior to the 9th day of November, 1901, these districts formed part of the Punjab and had, therefore, the advantage of such constitutional institutions as then existed there. In that Province a Legislative Council had been set up in the year 1897 but it was a purely nominated body, and neither the districts now comprising the North-West Frontier Province nor the rest of the Punjab enjoyed privileges of representation by election. The nominated members of the Legislative Council were in practice not drawn from the area now the North-West Frontier Province. Even within the Punjab these districts in the matter of legislation stood in a peculiar position. They were scheduled districts for the purposes of Act XIV of 1874, and the local Government was, therefore, competent to declare with the previous sanction of the Governor General in Council, what enactments were actually in force or not in force within them and to extend to them with suitable modifications or without modification any enactments in force in any part of British India. In addition they were territories to which Statute 33 Vic. Chapter III Section I applied, and were therefore territories for which the Governor General in Council might legislate by regulation. They were not, however, deregulationised tracts, that is to say, they were not territories which are by special enactments excluded in whole or in part from the operation of the general statute law. The effect of the separation of the province in 1901 on its position as regards legislation, therefore, was and remains that for the general statute law the Province looks to the Central Legislature but that laws of special application to the province are provided by regulations made by the Governor General in Council or by the extension, with suitable modifications, of enactments in force elsewhere by the local Government under section 5 of the Scheduled Districts Act. The practice has been to legislate for the province by regulation in the manner described in section 71 of the Government of India Act. The North-West

Frontier Code is, therefore, composed almost entirely of regulations, but there is one exception in the case of the North-West Frontier Constabulary Act XIII of 1915 which was passed in the Central Legislature. An Act passed in 1893 to provide for the grant of special tenancies in Government lands in the Punjab, although now repealed in the Punjab, remains in force in the North-West Frontier Province (Act III of 1893).

Administrative and Judicial Arrangements.

3. The Province is administered by the Chief Commissioner under the control of the Governor General in Council. In general that control is exercised by the Foreign and Political Department of the Government of India but particular classes of business are the concern of other departments. For instance, the Home Department controls business connected with internal politics, law and justice, Police and Jails, but not judicial and administrative establishments, petitions in cases decided under the provisions of the Frontier Crimes Regulation and Frontier Constabulary and Militia.

The general administration of the province is conducted by officers borne on the cadre of the Political Department of the Government of India. The superior police officers form one cadre with the Punjab Police. There is no separate superior cadre for the Public Works Department. The Officer Commanding, Royal Engineers, is the head of the Department. Works connected with roads and buildings are carried out by the Military Engineer Service. The canals are administered by officers belonging to the Punjab Irrigation Department. The province has its own provincial and subordinate services in all its administrative spheres. The Accountant General of the Punjab is the Accounts and Audit Officer for the North-West Frontier Province also.

The judicial arrangements were defined by the North-West Frontier Province Law and Justice Regulation, 1901, VII of 1901. The jurisdiction of the High Court at Lahore, save in special matters [Section 6 clause (*c*)] was excluded and its place was taken by a Judicial Commissioner, under whose supervision Courts of various classes were established. Officers who preside in these courts are borne on the cadre of the Political Department of the Government of India or on the provincial cadres.

Financial Arrangements.

4. With the separation of the province from the Punjab and its transference to the management of the Governor General in Council its annual estimates of revenue and expenditure were excluded from the Punjab budget and included in the budget of the Government of India. But no regular financial settlement with the province such as it was the practice to make with local Government was made. A settlement of that kind implies that the local Government is given certain revenues and required from those revenues to meet certain expenditure. Unexpended revenues go into provincial balances and remain available for future expenditure by the local Government. Nothing of this sort was done in the North-West Frontier Province. For some years, however, a domestic arrangement prevailed between the Government of India

and the Chief Commissioner to which the term " settlement " was loosely applied. In a sort of *pro forma* account the whole of the revenues collected in the province with a few very minor exceptions were credited to what were called " special " revenues, while half the expenditure incurred was debited to " special ". Owing to the heavy cost of administration, more particularly in the non-settled area, half the expenditure proved greater than the whole of the revenues. In consequence in this *pro forma* account the Government of India made up the difference by a so-called " assignment ". The object of this arrangement was administrative convenience in giving the Chief Commissioner slightly more latitude in matters of expenditure than would otherwise be the case, for the Chief Commissioner was free to meet one half of his expenditure from the balances at the credit of " special " revenues in the account. Expenditure, however, grew to such an extent that the account showed no balances at all. The arrangement, therefore, became a dead letter. But the essential position remained unaltered. All expenditure was just as much an item of central expenditure as, for example, expenditure on the Government of India's own Secretariat establishments, and the revenues collected were for every practical purpose just as much central revenues as customs collected at Bombay. In the accounts no effort was made to discriminate items of revenue and expenditure according as they were credits or debits to the administration of the North-West Frontier Province proper or to that of the unsettled tracts. The budget, therefore, did not show separately the financial position of the five districts.

The Chief Commissioner's powers of sanctioning expenditure are those of a minor local Government. Annual supply for the North-West Frontier Province is subject to the vote of Legislative Assembly precisely in the same manner as the other requirements of the Government of India.

Effect of Reforms. Suggestion of an Advisory Council.

5. The Reforms of 1909 and of 1919 left the constitutional position practically unaltered. On the former occasion the creation of a council for the North-West Frontier Province was not proposed, and no representation on the Imperial Legislative Council whether by election or nomination was given to the province. The power of nomination vested in the Governor General was not in practice used to bring representatives of the province into the Imperial Legislative Council. On the latter occasion it was definitely decided (Report on Indian Constitutional Reforms, paragraph 198) that the province must remain entirely in the hands of the Government of India. No representation on the Indian Legislature was assigned to it by rules but in practice the province has been represented in the Legislative Assembly since September 1921 and in the Council of State since January 1922. The authors of the report, however, charged the Government of India with the task of considering whether in the North-West Frontier Province, as in similar areas, measures should be taken to associate with the administration of the Chief Commissioner some form of advisory council, adjusted in composition and function to local conditions.

The Government of India early set themselves to this task. Problems of great difficulty soon emerged. At the very outset the question arose whether an Advisory Council would be concerned with such matters as our relations with the tribes. Was the scope of the council to embrace the whole of the Chief Commissioner's charge or only the settled districts? Then came questions regarding the suitability of election or nomination as methods of constituting the council and questions regarding the functions of the new body. Finally it became clear that a complete recasting of the financial relations of the Central Government with the province might be necessitated. An Officer was placed on special duty to distribute between the settled districts and the tribal area the revenue and expenditure of the North-West Frontier Province for the preceding quinquennium. This work preliminary to a financial settlement with the province was completed but no settlement has yet been made.

Suggestions regarding re-amalgamation with the Punjab, or the constitution of a Legislative Council.

6. Meanwhile it had become clear that certain sections of public opinion were moving on lines other than those suggested by the authors of the Joint Report. Critics had other points of attack than the lack of consultation with representatives of the people. Reformers at a later stage came to demand much more than an Advisory Council. On 21st September 1921 a resolution was moved in the Legislative Assembly demanding that the judicial administration of the North-West Frontier Province should be transferred to the High Court of the Punjab and that a committee should be appointed to consider the effects of separation from the Punjab and the expediency of re-amalgamation. The motion (which was adopted without a division) did not allude either to an Advisory Council or to a Legislative Council. The enquiries, however, which Government had undertaken in consequence of the suggestion of an Advisory Council had led them to consider the possibility of finding some form of constitution suitable to the case of the five districts. Accordingly in dealing with the resolution passed in the Legislative Assembly Government took action on a wider view than that suggested by the mover. On 11th February 1922 in reply to interpellation made by him they informed the Assembly of their decision to appoint a Committee, including non-official members of the Legislature, to consider the questions referred to in the resolution as well as the other proposals already before Government. They referred particularly to the establishment of a Legislative Council for the administered districts. This was the first public reference made to the possibility of such a council. In April 1922 a committee was appointed (Resolution No. 443-34-Fr., dated the 24th April 1922) with directions to report to the Government of India—

(*i*) whether it is expedient to separate the administration of the five administered districts of the North-West Frontier Province from the political control of the adjoining unadministered tracts;

(*ii*) whether, if such separation is expedient, it is expedient to re-amalgamate the five districts with the Punjab;

(*iii*) whether, if such separation is not expedient, it is expedient (*a*) to retain the whole province directly under the Government of India, and if so, (*b*) to constitute a Legislative Council for the five administered districts;

(*iv*) whether, if the retention of the province under the Government of India is expedient, it is expedient to transfer the control of the judicial administration to the High Court of the Punjab, and if not, what measures are recommended for the improvement of the existing judicial system; and

(*v*) the approximate financial effect of any proposals recommended.

The Committee made their report, to which two minutes of dissent by the only Hindus on the Committee were attached, in October 1922. The report is made an appendix to this note. The majority composed of the European and Muslim members of the Committee reported against re-amalgamation of the five districts with the Punjab, but recommended that no time should be lost in the creation of a Legislative Council with an elective majority and an executive comprising one member of council and one minister. They also advocated certain administrative reforms, notably the raising of the Court of the Judicial Commissioner to a Bench of two Judicial Commissioners, improvement as regards services, amendment of Frontier regulations, the introduction of the elective system into local self-governing bodies, and the grant of greater facilities for carrying arms.

One of the two dissenting Hindu members recommended that the administered districts and so much of the trans-border area as is now under the political control of the Deputy Commissioner of each district should be separated from the trans-border tracts under the political control of the Political Agents, and that the area so separated should be amalgamated with the Punjab Province. If separation of this nature could not be effected, he thought that the whole Province should remain directly under the Government of India, and that in place of the establishment of a provincial Legislative Council the province should be given fuller representation in the Central Legislature. In event of non-separation he proposed to transfer the control of the judicial administration to the High Court of the Punjab and to make certain improvements in the laws and regulations in force in the Province. The recommendations of the second dissenting member were to the same effect, but in the event of separation being found inexpedient he thought the administrative control of the province should be exercised by the Home Department of the Government of India and that only political and foreign relations should be retained under the control of the Foreign and Political Department.

Action taken by the Government of India.

7. The Government of India in due course reached decisions on those matters referred to the Enquiry Committee which arose out of the Resolution of 1921. They decided against re-amalgamation of the North-West Frontier Province with the Punjab and they

took steps which ended in the promulgation of Regulation IV of 1926 and reformed the judicial arrangements by the appointment from the Bar of an additional Judicial Commissioner to form, with the existing Judicial Commissioner, a Bench of two judges. Regulation III of 1923 was enacted to withdraw power formerly vested in Appellate Courts of enhancement of sentences on appeal. Rules regarding legal practitioners were amended so as to remove restrictions on the Bar. The practice regarding the use of political lock-ups was amended to conform to the strict letter of section 21 of the Frontier Crimes Regulation. Village levies were organized in the districts of Kohat, Bannu and Dera Ismail Khan, and Government rifles were issued more freely to villagers close to the border for village defence, no licenses being required. No action has yet been taken to introduce a system of election to local self-governing bodies. Nomination by Government is the universal practice.

It was, however, the question of a Legislative Council which Government themselves had raised on which no immediate decision could be reached. The constitutional change suitable to the conditions of the Province were still under the consideration of Government when on the 16th February 1925, a resolution was moved in the Council of State recommending that effect be given at an early date to the recommendations of the Enquiry Committee. The resolution was withdrawn after the action and the attitude of Government had been explained. But later on the 16th February 1926, a resolution was moved in the Legislative Assembly recommending that the provisions of the Government of India Act which relate to Legislative Councils and the appointment of Ministers, etc., with protection to minorities should be extended to the North-West Frontier Province. The tabling of this resolution caused much discussions in the various parties for it was feared that a debate on it would result—as a debate on a similar resolution had resulted previously in the Punjab—in a Hindu-Moslem split, the Hindus voting solidly against Reforms and the Muslims solidly in favour of them. The actual initiation of the debate coincided—according to some it was not wholly coincidence—with the walk out of the Swaraj Party, with the exception of some of its Muslim membres. And the debate which ensued was illuminative of the divisions of opinion and thought in the matter. It gave the Home Member an opportunity to state the position of Government. He did so in the following words:—

> "Now, the House is aware that Government have definitely turned down the question of the amalgamation of the North-West Frontier Province with the Punjab. That itself is a position that has very definite implications which I trust will not be missed by this House. The North-West Frontier Province is to remain a separate province and therefore it must move in due time and in its own way, subject to its own conditions, to its status as a complete province. The question what and in what direction constitutional advance can be given in the North-West Frontier Province has been and is under the

consideration of the Government. No definite decision on that point has been arrived at and no definite decision on that point will be arrived at or announced till Government are satisfied that they have come to a right conclusion and that the moment for its announcement is ripe. Therefore, the attitude of the Government towards this resolution must be one obviously of neutrality."

Inspite of the diversity of opinion in the House the motion was adopted without a division.

Arguments which have been used in support of or against advance.

8. The arguments in favour of the grant of a generous measure of political power are stated in full in the debates to which reference has been made and in the report of the Enquiry Committee, particularly in its 38th paragraph. The most cogent are the services which the province renders to the whole of India, the soreness of the people of the districts at their exclusion from the reforms, their political aspirations, and their high intelligence and capacity to manage their own affairs. On the other hand the Hindu members of the Committee who wrote minutes of dissent saw insuperable objections to the introduction of responsible Government in a province dependent on central revenues and to a form of dyarchy in which direct administration by the Government of India would synchronize with the establishment of a strong local Government. These arguments were elaborated by one of them (Diwan Bahadur T. Rangachariar) in the course of the debate in the Assembly.

The proposal then under discussion was a proposal for a full-fledged dyarchical constitution similar to the constitutions granted to the most advanced provinces. Against a proposal of that nature it has been argued that dyarchy, which involves the responsibility of a Ministry to a legislature based on a broad electorate, presumes a franchise which does not exist and cannot seemingly at present be created in the North-West Frontier Province, seeing that none of the local bodies are as yet constituted by election. Dyarchy is an advanced form of constitution which never has been and cannot safely be introduced in a province with no constitutional history whatever. It has occasioned or at least stimulated in other provinces dissensions which have peculiar dangers in the North-West Frontier Province. Its introduction there would cause apprehension in other parts of India and is not, so it has been contended, a genuine popular demand in the province as a whole. It has also been contended that the extent to which matters of internal administration are interlinked with matters affecting the tribes of the non-administered areas makes it doubtful whether an appreciable number of subjects can be selected for transfer and, consequently, for removal from the superintendence, direction and control of the Government of India. Finally the inelasticity of provincial revenues and the financial dependence of the province, whose normal receipts provide little more than half of its normal expenditure, on Central revenues have been advanced as an insuperable obstacle

to the introduction of dyarchy. The Minister would be powerless in the annual allocation of revenues and could not therefore be to any effective extent responsible to the Legislature.

Whatever weight may be attached to these considerations in their relation to a constitution on the model of 1919 they have a somewhat different bearing on a constitution on the model of 1909. A Legislative Council possessing powers of legislation, deliberation and interpellation lies in the course by which the major provinces have reached their present constitutions. The electoral and political problems which its creation would raise are perhaps not so difficult as those raised by the scheme which the Enquiry Committee favoured. But it is not *primâ facie* clear that conditions favourable to the introduction of direct election exist, and the problems of what subjects should be classified as provincial and how a financial settlement with the province can be made remain. Both problems seem to imply an exclusion of the Central Legislature, for it would be impossible to have the same matters discussed and settled in two legislatures. There appears to be little prospect of bridging the great gulf between provincial revenues and provincial expenditure by selecting particularly expensive heads of administration to be central subjects. Such an expedient might leave the Council with powers which would not be a reality, since the principal heads of expenditure would be discussed and voted elsewhere. The alternative may be found to be to balance the provincial budget by the grant of an assignment from Central revenues, and it may follow that the assignment should be fixed for a term of years and should not be votable by the Legislative Assembly.

9. It is not the intention of this note to describe the position which at different times this question has occupied in the general political situation. But the account of past discussions which has been given has shown incidentally that the divergent aims of Hindu and Muslim politicians have had a great influence on the manner in which public opinion has approached the problem. This influence has been at work both in the Province and in the Punjab Legislative Council and in the Central Legislature. It is therefore necessary to point out that the problem has begun to wear a new political aspect. Muslim political opinion generally remains in favour of the grant of a reformed constitution. Hindu political opinion outside the province has become largely, if not entirely, reconciled, to a constitutional advance. The All Parties Conference has adopted a resolution in favour of placing the North-West Frontier Province on the same footing as other provinces, and in the last debate on the demands made in the General Budget on 14th March 1928, the Legislative Assembly without a division adopted a motion making a token cut in the demand under the head " North-West Frontier Province " to express dissatisfaction at the failure of Government to grant a reformed constitution. That motion was supported by the Hindu members of the Assembly. The Hindu leader of the National Party spoke in its support, making clear his personal attitude, in favour of reforms, and appealing to the Hindus of the province to abandon opposition.

THE PROVINCE OF DELHI.

The Province of Delhi.

Constitution of the new province.

1. The province of Delhi was constituted with effect from the first October 1912, by the orders contained in the Notification No. 911 of the Government of India (Home Department) of the 17th September 1912. The decision to transfer the seat of the Government of India from Calcutta to the ancient capital of Delhi had been announced by His Imperial Majesty at Delhi at the Durbar on the 12th December 1911, and it was a corollary to that decision that the city of Delhi and part of the surrounding country should come under the direct administration of the Government of India. The considerations on which these decisions were taken are explained in the despatches to and from the Secretary of State of 25th August 1911 and 1st November 1911, respectively, which are published documents.* The extent of territory to be included in the new province was determined by the impossibility of excluding old Delhi, whose interests are intertwined with those of the new city, and by the expediency of including a small margin over and above the actual limits of the Imperial capital. The province was, therefore, carved out of the Punjab by the segregation of that portion of the district of Delhi comprising the Tahsil of Delhi and the police station of Mahrauli. Later, in 1915, the province was enlarged by the addition to it of 65 villages of the Meerut district of the United Provinces which adjoin it on the other side of the Jumna river. The transfer was dictated by considerations of health, expansion and other interests attaching to the surroundings of the new Capital. It was also considered desirable and convenient to vest the control of the river channel in a single authority. The result is, according to the Census of 1921, a province covering 593 square miles and including a total population of 488,188.

Administrative and Judicial arrangements.

2. The province is administered by a Chief Commissioner under the control of the Government of India in the Home Department. His powers are those of a local Government but the Governor General in Council is by statute given authority to reserve to himself or to delegate to another authority such powers or duties of the local Government under existing enactments as he may specify. Ministerial and lower subordinate establishments are borne on local cadres and are recruited by the Chief Commissioner. There are, however, no local cadres for other services. Generally speaking, all posts are borne on the Punjab cadres, but the posts of Chief Commissioner, Deputy Commissioner, Civil Surgeon and some others are borne on the Imperial establishment. The administration of irrigation remains with the Irrigation Branch of the Public Works Department of the Punjab, and use is made of the technical assistance of the administrative officers of other departments in that province. But the Chief Commissioner discharges the functions of the Inspector-General of Police in the matter of the control

* *Vide* Mukherji, Indian Constitutional Documents, Vol. I, pages 453 *et seq.*

of the police personnel in Delhi and the province is a separate police district. The jurisdiction of the High Court at Lahore remains, and has been extended to the villages received from Meerut which were previously in the jurisdiction of the High Court at Allahabad. The judicial officers presiding over the Courts established in the province are obtained from the Punjab.

Legislative arrangements.

3. The position of the province in regard to enactments has been determined by the Delhi Laws Act, 1912 (XIII of 1912), and the Delhi Laws Act, 1915 (VII of 1915). The former Act was passed for the province originally constituted by separation from the Punjab. The latter was necessitated by the inclusion of the Meerut villages. In the original area all existing laws which the tract had received from the Punjab were maintained in their entirety, except in so far as it was necessary to provide for their administration by the new authorities. The Meerut villages, however, had laws of their own which they had received from the United Provinces, and it was therefore necessary to consider how far uniformity of statute law throughout the province could be attained. What the Act of 1915 did was to apply to the new area the laws already in force in the province of Delhi, making, however, reservations relating mainly to land, with the object of avoiding disturbance of local agrarian incidents and conditions. The result is that the portion of the province taken from the Punjab retains the agrarian legislation which it brought with it; the Meerut villages retain the agrarian legislation brought from the United Provinces; in other respects the law is uniform. For the whole province as now constituted the Governor General in Council may legislate by extending to it or any part of it any enactment, restricted and modified as he may think fit, which is in force in any part of British India. In addition, Acts passed by the Indian Legislature, which are expressed to extend to British India, extend to the province of Delhi; and the Indian Legislature is of course possessed of power, which it has exercised in the two cases mentioned below, of enacting legislation specifically applicable to the province of Delhi alone. The province therefore looks for its legislation to the Indian Legislature or to the Governor General in Council. The two enactments of the Indian Legislature specifically applicable to Delhi are the Delhi University Act of 1922 and the Delhi Joint Water Board Act of 1926. The former was intended to provide for a local university on the model recommended in the case of Dacca by the Calcutta University Commission. The latter Act gave legal powers to a Joint Board for supplying water in bulk for domestic purposes to the several municipal bodies which administer the urban area of Delhi.

Financial Arrangements.

4. No financial settlement with the province has been made. Expenditure on the construction of the New Capital, which is not a provincial concern, is administered by the New Capital Committee. The annual estimates of the provincial administration form part of the central budget. Provision for standing charges, fluctuating charges and fresh expenditure is made in the same manner as for departments of the Government of India. The Chief Com-

missioner's powers of expenditure are those of a minor local Government. The Delhi accounts are swollen by large figures of receipts and charges which are either directly or indirectly central. A clear view of the sufficiency or insufficiency of provincial revenues to cover provincial expenditure could be obtained only after detailed scrutiny of the accounts and discrimination of the items which may justly be considered provincial. It seems probable, however, that the presence of the headquarters of the Imperial Government involves a scale of expenditure for which provincial revenues alone would be inadequate, and that these revenues are not sufficiently elastic to permit of the development which is desirable.

The Reforms of 1919.

5. An immediate effect of the constitution of the province was to deprive it of the representation which it enjoyed in the Legislative Council of the Punjab. To that Council Delhi had contributed two out of fourteen non-official members. The Chief Commissioner, however, remained *ex-officio* a member of the Imperial Legislative Council. It was partly on account of this loss of representation and partly on account of the importance of Delhi that in 1919 the Joint Select Committee decided to add one seat in the Legislative Assembly to be filled by an elected representative of the province. No representation on the Council of State was given but in practice the Chief Commissioner is invariably nominated as a member of that Chamber. For the Legislative Assembly the constituency is the whole province. The electoral qualifications are those required in general constituencies in the Punjab with the addition that a tenant of immoveable property, other than land assessed to land revenue, is enfranchised on the same terms as an owner of such property. The number of electors on the roll at the last election was 5,551 and 65 per cent. of them voted.

The authors of the Report on Indian Constitutional Reforms in their one hundred and ninety eighth paragraph suggested that the expediency of setting up in such areas an advisory Council, adjusted in composition and function to local conditions, should be considered by the Government of India. The conclusion which the Government of India reached was that in Delhi there is no need for such a body. The province has an area about equal to a subdivision of a district, and already possesses in its Municipal and District Boards Indian bodies whose advice is available on all matters concerning the administration.

Possibility of change in the constitutional status of the Province.

6. No demand for any alteration in the constitutional position of the province has so far been addressed to the Government of India. There are no indications of any popular demand of this nature. But in the resolution passed by the All Parties Conference regarding the re-distribution of provinces and the treatment of centrally administered areas, it has been suggested that, among other such areas, the province of Delhi should be placed on the same footing in respect of its form of Government and its executive and judicial administration as any other province. It is possible, therefore, that the question of granting a reformed constitution to

Delhi province may be pressed upon the attention of the Commission.

There are at least two aspects from which this question may be regarded. The first is that the province of Delhi comprises the seat of the Imperial Government and those areas alone which cannot be conveniently severed from it. It was precisely because the seat of the Central Government was transferred here from Calcutta that the province was constituted, and one of the most important objects which the transfer was designed to secure was the complete dissociation of the supreme Government from any particular provincial Government. It may be argued that the principle of central administration of the headquarters of the Central Government has the support of the precedents of many other countries, and that it is desirable that a province which owes its very existence to the presence of the supreme Government should be under the direct administration of that Government. It may, however, on the other hand be argued that for one-half of the year the Central Government, while in Simla, is situated in a provincially administered area, and that for the rest of the year in Delhi its interests would not suffer at the hands of an administration such as the Punjab Government exercises in Simla. It may also be said that Lord Hardinge's Government, in considering it essential that the supreme Government should not be associated with any particular provincial Government, cannot have feared the malign influence of a tiny provincial government such as Delhi with a constituiton would be.

The second aspect is that the grant of a reformed constitution involves legislative, financial and administrative devolution. It will be for consideration whether devolution of any of these kinds can be justified. As regards legislative devolution it may be argued that the demarcation of a provincial field of legislation for small areas can be justified only when an area is sharply discriminated either by natural conditions or by the race, habits and interests of its people. That justification may exist in Coorg. But Delhi province is an artificially created entity in which the possible range of differences in legislation from the Punjab is very limited and in which marked peculiarities of law would cause many inconveniences. The present method of legislation already described prevents a diversity of legislation where there is no natural diversity of condition. If in the absence of any natural differentiation of Delhi province from the adjacent provinces the appropriate procedure is that the statute law of Delhi should be the statute law of the Punjab with suitable modifications, then the scope of such modifications is perhaps incapable of reduction to a definition of powers which a local legislature might exercise. It might, therefore, be argued that the present method of legislating for the province is the only one which is suitable to its conditions.

As regards financial devolution, it will be for examination whether the Delhi accounts are not swollen by large figures of central receipts and central expenditure, and whether, while on the one hand purely provincial expenditure is normally in excess of

provincial receipts, on the other a province constituted to be the seat of the supreme Government does not require a scale of expenditure much greater than provincial revenues would justify. *Primâ facie*, expenditure undertaken in excess of provincial requirements and in the interests of the Central Government should be centrally administered. If the annual deficit in the provincial budget were met by a subvention from central revenues, that subvention, on the hypothesis of a reformed provincial constitution, would have to be fixed for a period of years. In the result, the requirements of the Imperial enclave would depend to a greater or less extent on local taxation and on the readiness of a local legislature to impose it.

As regards administrative devolution it might be argued that following the precedents of other countries, it is desirable that the Supreme Government and the Indian Legislature should have complete authority. It would, for instance, be improper, it might be said, that the Supreme Government should have only a remote interest in the general and political condition and in the good order of its own enclave. The development and the efficient administration of the seat of the Imperial Government are the intimate concern of that Government.

THE ANDAMAN AND NICOBAR ISLANDS.

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The Andaman and Nicobar Islands.

The Andamans and Nicobars unsuitable for constitutional advance.

1. For reasons which are sufficiently clear no proposal has ever been put forward nor has any suggestion been at any time made for the extension to the Andaman and Nicobar Islands of any form either of responsible or of representative government. These islands are, however, a centrally administered area of the Government of India; and some aspects of their administration are therefore briefly described in this memorandum. The two most important facts to be brought out in the memorandum are

(1) that the primitive aboriginal inhabitants of the islands have not been brought under any direct form of administration; they are left as far as possible to themselves, and

(2) that as the result of a decision taken in 1921 the settlement of Port Blair is to be discontinued as a penal settlement and developed as a free colony. It still retains a large convict population, and will continue to do so for a number of years to come; but the new policy is being

brought into effect, and the present is a difficult period of transition in the administration of the settlement.

The Andamans occupied in 1789; the first settlement abandoned in 1796; the islands reoccupied in 1856.

2. The Andamans and the Nicobars are two distinct groups of islands, which were not united under the same administration till 1871 when the Chief Commissionership of the Andaman and Nicobar Islands was formed.

In 1788 owing to piracies and the ill-treatment of shipwrecked and distressed crews, the East India Company commissioned the surveyor Archibald Blair to start a settlement in the Andaman islands on the ordinary lines to which convicts were afterwards sent as labourers. Blair fixed on Port Blair for his settlement in 1789 (it was not first so named); but for strategical reasons the settlement was moved to Port Cornwallis in 1792. This was an unfortunate change of site, and four years later in 1796 the Court of Directors recorded a minute abolishing the settlement on account of the sickness and mortality among the settlers.

Continuous piracy and murders led to the second occupation in 1856 when the Government of Bengal suggested the establishment in the islands of a penal settlement. The Mutiny of 1857 threw a large number of mutineers, deserters, and rebels in the hands of the Government, and in November of that year it was finally decided to send them to the Andamans. In 1858 the penal settlement was begun, one of the last acts of the East India Company being the formal confirmation of the Government of India's proceedings.

Formal possession of the Nicobars assumed in 1869.

3. Unlike the Andamans the Nicobars have a long history of European occupation. They attracted the attention of Portuguese missionaries in the seventeenth century and possibly much earlier. In 1756 the Danes took possession of the islands: and various attempts were made at conversion and colonisation. From 1807 to 1814 during the Napoleonic Wars the islands were in British possession and then handed back by treaty to the Danes. In 1848 the Danes formally relinquished sovereignty and finally removed all remains of their settlement. In 1869 after an amicable negotiation with the Danish Government the British took formal possession of the Nicobars, and established at Nancowry Harbour, subordinate to that in the Andamans, a penal settlement which was withdrawn in 1888.

Area and population.

4. The land area of the islands under the Administration is 3,143 square miles; 2,508 square miles in the Andamans, and 635 square miles in the Nicobars. The population of the whole area was returned at the census of 1901 as 24,649 consisting of 1,882 Andamanese, 6,511 Nicobarese and 16,256 persons living in the Penal Settlement. When the census of 1921 was taken, the population had increased to 27,086 consisting of 2,139 Andamanese, 9,272 Nicobarese and 15,675 persons living in the Penal Settlement.

The Settlement of Port Blair consists of the South Anadaman and the islands attached thereto, covering 473 square miles. Some portions of the settlement, covered by dense jungle, are still not in actual occupation, and have remained in the hands of the Jarawas, one of the several Andamanese tribes.

The administration of the Nicobars.

5. For administrative purposes the area falls into three groups (1) the settlement of Port Blair, (2) those portions of the Andaman islands not included within the settlement; and (3) the Nicobar islands.

There is no established form of direct administration of those parts of the administration which lie outside the settlement at Port Blair. The Andamanese and the Nicobarese are among the most pirmitive types of mankind, and the policy of Government is to interfere with them as little as possible.

When the Nicobar islands were under occupation as a penal settlement in 1882 a system of control was started by means of the formal appointments of all chiefs as from the British Government. This system has survived and by its means a sufficiently effective continuous control is maintained. The chiefs thus appointed are, as far as possible, selected by the people themselves, but Government reserves to itself the power to depose any chief who misbehaves and to appoint another in his place. The chiefs are charged with certain official duties, for instance to report to official visitors all occurrences especially smuggling, wrecks and violent offences and to assist in keeping order. On the whole the chiefs perform their duties as well as might be expected from people of their civilisation. In every other respect the people are left to themselves.

A Government Agent is maintained at Nancowry and his duties are to assist the chiefs in keeping order, to collect fees for licenses to trade in the islands, to give port clearances, to report all occurrences, to prevent the smuggling of liquor and arms, and to settle petty disputes among the people themselves, or between the people and the traders, as amicably as may be. Excepting the ceremonial " devil murders " of Car Nicobar, when they occur, there is scarcely any violent crime; the " devil murders " are dealt with direct from Port Blair.

The administration of the Andamans outside the limits of the settlement of Port Blair.

6 Administrative touch with those parts of the Andamans which lie outside the penal settlement of Port Blair is even more lightly maintained than with the Nicobars. Such slight administrative control as is exercised over the Andamanese is exercised by an officer in charge of them, who is one of the executive magisterial officers of the penal settlement appointed for the purpose by the Chief Commissioner. Since the establishment of the settlement in 1858 a home for the Andamanese has been maintained at Port Blair for the use of the aborigines as a free asylum to which any Andamanese is admitted. He may stay as long as he pleases, and go when it suits him. While there he is housed, fed and taken care of, and for the sick there is a good and properly maintained hospital. In return the residents in the home are employed to help in catching runaway convicts, in collecting edible birds' nests and trepang and other natural produce, and in making curios, the small income derived from which is spent on them.

In short the present policy, and it is a policy which has not varied since the settlement was established, is to leave the Andamanese alone, but to do what is possible in the conditions to

ameliorate their lives. The administrative objects gained by establishing friendly relations with the tribes have been the cessation of the former murders of shipwrecked crews, the external peace of the settlement, and the creation of a jungle police to prevent escapes of convicts and secure the recapture of runaways.

During recent years there has been some loss of contact between the Administration and the Andamanese to some extent intentional on the part of the former. The number of Andamanese who are rationed by the Home decreases annually and the admissions to hospital have dropped in five years from 50 to *nil*. The bulk of the surviving Andamanese belong to tribes whose real home is the North Andaman island, and any contact they desire with civilisation they obtain at the Forest Settlement of Bonington in Stewart Sound.

The administration of the settlement of Port Blair.

7. The settlement of Port Blair is administered by the Chief Commissioner as Superintendent with a staff of assistants. Since the abolition in 1915 of the former separate Andamans Commission officers have been recruited for the Andamans on deputation from the various services in India. The Andamans Commission was abolished because it was found that a system by which officers spent their entire service in isolated and narrow surroundings was not conducive to efficiency. There are a number of special departments, police, medical, forests, etc., of the usual type except that all civil officers are invested with special powers over convicts. Civil and criminal justice is administered by a series of courts under the Chief Commissioner who is also the chief revenue and financial authority.

The settlement centres round the harbour Port Blair, the administrative headquarters being on Ross Island, an islet of less than a quarter of a square mile, across the entrance of the harbour. For administrative purposes the settlement is divided into two districts and four sub-divisions.

The population of the settlement consists of convicts, their guards, the supervising clerical and departmental staff, with the families of the latter, and a certain number of ex-convict and trading settlers and their families. As a result of the new policy free settlers are encouraged to make their homes in the settlement. The convicts while in the settlement are divided in several ways; the great economic division for both sexes is into labouring convicts and ' self-supporters '. The settlement is divided into what are known as the ' free ' and the ' convict ' portions, by which the free settlers living in villages are separated from the ' self-supporters ' who also live in villages.

The decision in 1921 to abandon the Andamans as a penal settlement.

8. One of the most important subjects discussed in the report of the Indian Jails Committee of 1921 was the future of the penal settlement in the Andamans. The publication of the report was followed by an announcement made by the Home Member in the Legislative Assembly on the 11th March 1921 to the effect that, though some considerable time must elapse before their policy could be completely carried out, the Government of India had decided that the time had come to end the use of the Andamans as a penal settlement.

This decision was communicated to the local Governments with directions to stop absolutely the transportation of females and to repatriate female convicts already in the Andamans not married locally, and, also, so far as was practicable, to stop the transportation of male convicts. This stoppage of transportation to the Andamans resulted in serious over-crowding in the jails of nearly all the provinces, especially in the Punjab, in the Madras Presidency owing to the influx of prisoners sentenced as a result of the Malabar disturbances, and in the North-West Frointier Province, where the jail population in 1922 exceeded the available accommodation by over 40 per cent. For this reason the Government of India reluctantly agreed to reopen transportation temporarily from those provinces where the position was most serious; an absolute prohibition was, however, maintained on the transportation of females, of persons convicted of offences in connection with political movements, and of prisoners suspected of a tendency to unnatural vice.

There were similar difficulties in any immediate repatriation of prisoners from the Andamans; not only would their return have aggravated the conditions in the Indian jails, but a considerable number of self-supporters lived in semi-independence in the settlement, to whom close confinement in an Indian jail would have been a serious hardship. A beginning was, however, made by the transfer of as many as possible of the convicts who had suffered in health or had proved incorrigible. In 1921, when Government decided to close the settlement the convict population numbered 11,532; by December 1926 their number had been reduced to 7,740.

The lines of future development.

9. In appendix I to this memorandum a copy is given of a resolution issued by the Government of India on the 27th February 1926 stating the steps which had been taken by Government to give effect to the decision of 1921 and making a public declaration of their policy for the future development of the islands. Owing to difficulties in at once introducing a sufficient number of free settlers to supply the deficiency in convict labour the policy was adopted of encouraging convicts to import their wives and families and efforts were made to obtain convicts in Indian jails to volunteer for transfer to the Andamans.

The Mappilla colonisation scheme and the Andamans Deputation, 1925-26.

10. In paragraph 8 of the resolution of the 27th February 1926 reference was made to the success with which Mappilla convicts had been established in the Andamans. These were convicts who had been permitted by the Government of India to be transported by the Government of Madras in order to relieve the congestion in the jails of the Madras Presidency, which had been taxed to their utmost capacity by the large number of convictions in the Malabar rebellion. The establishment of the Mapilla convicts in the Andamans was misunderstood and it was being represented that the families of these convicts were being removed from Malabar in the interest of the Nairs who were anxious to get rid of the Mappillas from Malabar. The transfer of Mappilla women and children was therefore stopped in 1926 pending a report by a deputation of four non-official gentle-

men who visited the Andaman islands in December 1925 in order to see for themselves the conditions in which the Mappilla settlers were living. A copy of the report submitted by the deputation is attached as appendix II to this memorandum.

Allegations in the report of the deputation refuted by the Government of India.

11. The criticisms made by the three Muslim members of the deputation were refuted by the Government of India in a resolution dated the 4th October 1926, of which a copy is given as appendix III to this memorandum. As a result, however, of the visit of the deputation to the Andamans it was decided that the Mappilla colonisation scheme should continue on its present lines but on a voluntary basis. Mappilla settlers at present in the Andamans who wish to return to jails in India and to send back their wives and families to Malabar would be allowed to do so: long-term Mappilla prisoners in jails in India would be given the option of remaining in the jails or taking up the life of a settler in the Andamans with their families. Those volunteering for the Andamans would further have the option, after remaining one year in the Andamans, of returning to jails in India and sending back their wives and families to Malabar.

Legislation by regulation under section 71 of the Government of India Act.

12. The Andaman and Nicobar islands are not deregulationized territory, that is to say there is no law under which the application to those islands of enactments extending to the whole of British India is barred or restricted. Special legislation for the islands is however undertaken by regulation under section 71 of the Government of India Act. The first formal regulation for the islands was made in 1874, but gave place two years later to the Andaman and Nicobar Islands Regulation 1876 which, with subsequent amendments, is still in force. The Regulation proceeds on lines suited to a penal settlement; and since the change of policy in 1921 gradually to discontinue the settlement as a convict settlement, the Andaman and Nicobar Islands Land-tenure Regulation III of 1926 has been promulgated on more liberal lines to confer security of tenure on small as well as large holders and to enable convicts to acquire occupancy rights on release. The Andaman and Nicobar Islands (Amendment) Regulation II of 1927 was promulgated to abolish landing-permits, which are however still required for the Nicobars. The requirement of landing-permits from persons wishing to proceed to the Andamans was felt to be a formidable stumbling block to the development of Port Blair as a free colony.

Financial arrangements.

13. It has at no time been the policy of Government to raise revenue from the aboriginal population of the islands, and financial interests have been confined to the settlement at Port Blair, in which the requirements of convict discipline and management have been placed before revenue. Somewhat heavy capital expenditure is now being undertaken by Government with the object of reclaiming swamps in the more thickly populated parts of the settlement, in order to stimulate development. The Administration is a direct charge upon central revenues, and the entire cost of the settlement at Port Blair is borne by the Central Government. When it was decided to discontinue the transportation of prisoners to the Anda-

mans, it was recognised that increased expenditure would be thrown on the provinces. It was held, however, that since jails are a provincial subject, the provinces had no claim to any contribution from central revenues to meet the additional expenditure thrown upon them.

During the last few years receipts have varied between Rs. 13 and 14 lakhs, and expenditure between Rs. 30 and 40 lakhs.

APPENDIX I.

The Government of India's Resolution No. F.-20/26, dated the 27th February 1926.

HOME DEPARTMENT.

RESOLUTION.

JAILS.

Delhi, the 27th February 1926.

No. F.-20/26.—In March 1921, the Hon'ble Sir William Vincent announced in the Legislative Assembly that the Government of India had decided to abandon the Andaman Islands as a penal settlement. No further statement of policy in relation to these islands has since been made though the question of their future has in one form or another constantly been before Government. In October last, the Hon'ble Sir Alexander Muddiman, Member of the Executive Council of His Excellency the Governor General, visited the islands, saw the progress that had been made since 1921 towards the development of a free settlement and had the advantage of discussing future policy with the local authorities. As a result of this visit the Government of India have decided that it is desirable for them to review briefly the recent history of the Andamans administration and to state their policy as to future development of the islands.

2. The penal settlement was founded at Port Blair, the principal harbour in the Islands, in 1858. For a period of over 60 years prisoners sentenced to transportation were regularly sent to the settlement. In 1921, when Government decided to close the settlement the convict population numbered 11,532, of whom 1,168 were self-supporters. Of these about 3,000 were persons convicted of crimes of passion, about 6,000 were criminals convicted of serious offences but not habituals, and the remaining 2,500 were professional criminals who had adopted a life of crime as a means of livelihood as a result either of environment or of inherited criminal proclivities. Under the system in force up till 1921 a convict was kept in the cellular jail for the first six months after his arrival in the settlement, and thereafter, for a period of nine and half years he

remained a member of a labour corps, lived in barracks, was fed and clothed by Government and earned a small gratuity in cash. After ten years in the settlement a convict could, provided his conduct had been satisfactory and that he had shown a capacity to care for himself, be given a ticket of leave. The privileges of a convict on ticket of leave were that he was allowed to import his wife or marry locally and to live a life of semi-independence either in a village as a cultivator or milk seller or in private service or engaged in some other work from which he could gain a livelihood. Release came, subject of course to satisfactory conduct, after a convict had served 20 years—if convicted of an offence committed as a result of passion or which was not proof of a definitely criminal nature, or 25 years if he had been convicted of such a serious offence as dacoity or was a professional criminal. On release a convict had to leave the settlement.

3. In addition to the ever changing convict population there was in 1921 a permanent population of about 3,000 persons known as "local-born". These were for the most part descendants of convicts. They found employment either on the land as cultivators of small holdings, or in trade in one of the bazars, or in one form or other of Government service. The settlement was run definitely as a penal one and in consequence the civil rights and privileges of this local population were very restricted. As cultivators they remained tenants at will and had no real security of tenure; they were liable to transfer from one village to another if the interest of the settlement so required, and they had no rights in any property whatever. Nothing had in fact been done to encourage land settlement and development. Although about 80 square miles of primeval forest had been cleared by Government only 3,300 acres were under crops. Government plantations covered another 3,300 acres of which 2,300 acres were under coconuts, 680 acres under rubber and the remainder under tea and coffee. There was also an area of some 13,000 acres of grazing land. Communications had been faiclitated by the metalling of about 100 miles of road.

4. The task of closing the penal settlement has not been found an easy one. At the outset two serious difficulties were experienced. In the first place there was the considerable number of self-supporters in the settlement who were enjoying a life of semi-independence. To have transferred these persons forthwith to Indian jails to serve the remainder of their sentences in close confinement would have been a serious hardship. On the other hand the decision to close the settlement could not be regarded as a sufficient reason for releasing self-supporters before they had served their sentences. The second difficulty was the congested condition of Indian jails in most provinces which rendered it impossible for local Governments to agree to the immediate transfer of large numbers of prisoners. These two considerations made anything but gradual withdrawal impossible. A beginning was made by the transfer of as many as possible of the convicts who had suffered in health or had proved incorrigible in conduct and these transfers together with the almost complete stoppage of transfers from India to the settlement have

already effected a large reduction in the convict population which in December last numbered 7,740, a reduction of 33 per cent.

5. As a result of the decision to abandon the penal settlement and the practical steps taken to give effect to that decision, the question of the future of the islands came into prominence. The alternatives were partial abandonment with the probable consequence of retrogression which is apt to be rapid in a tropical climate, and conversion into a free settlement. There were many reasons why abandonment could not for a moment be contemplated. One important consideration was the existence of the local-born population who have grown up in the settlement and know no other home. It would be a very serious hardship to them if Government abandoned the settlement altogether. Another consideration was that the islands occupy an important strategic position in the Bay of Bengal, have a fine harbour, and are a very distinct asset to India from the naval point of view. The meteorological and wireless stations are also of much value to shipping in the surrounding seas. Apart from these considerations there is the inherent wealth of the islands, agricultural and forest, and the possibility of developing them into a valuable asset. For all these reasons Government policy has since 1921 been directed towards the conversion of the penal settlement into a self-supporting community.

6. Development on these lines has already effected some notable changes in the settlement, particularly in the treatment of convicts. Practically the whole labour force of the islands consisted of convicts. The reduction of the convict population at once began to cause a shortage of labour and efforts were therefore made to introduce a free population from outside. At the first attempt these efforts failed. The islands had acquired a sinister reputation as a place of banishment. Government thereupon decided to make use of the material at hand and to try to induce convicts to remain as free settlers, by relaxing their conditions, granting them tickets of leave after a short period of probation and obtaining their wives for them from India. The ticket of leave system was widely extended and a new departure was the grant of tickets to convicts retained on Government work whereby they were paid wages on a sliding scale according to skill. Another change was the grant to convicts on a rations and a free clothing basis of relaxations which were designed to remove the stigma of the convict state. These changes have already produced tangible results. Whereas in 1919 10,000 labouring convicts were required for public works and services the same works and services are now being carried on by a mixed force of 5,500 labouring convicts and self-supporters. There is a great change in the mental outlook of the convict and this is reflected in his whole bearing and conduct, in his capacity for work, and in his general health. One example may be quoted. The Chatham Sawmill formerly employed 57 labouring convicts and 159 self-supporters, a total of 216. The daily sick rate among the labouring convicts was 35 per cent. and among the self-supporters 2·5 per cent. It now employes only 197 self-supporters and their sick rate last year was just over 2·25 per cent. The Chief Commissioner has expressed

the view that the bad name of the islands for health was at least in part due to the mental condition of the convicts as well as in part to malingering, and by no means solely to the inherent unhealthiness of the locality. In support of this view he cites the case of the free population engaged in forest work in the North Andaman who are not troubled by malaria and have a daily sick rate of only 1 per cent. although living in conditions apparently similar to those of Port Blair. The change in the distribution of the convict population since 1921 is shown by the following figures. In 1921 out of a total of 11,532 only 1,168 were self-supporters. In December 1925 out of a total convict population of 7,740, there were 2,105 self-supporters drawing wages from Government and 2,272 agricultural and other self-supporters. The proportion of self-supporters has thus been increased from 10 per cent. to 56 per cent. in a period of less than five years.

7. The interests of the free population, which now numbers between 4,000 and 5,000, have also been receiving attention and at the same time efforts have been made to attract persons with some capital to take up grants of land. Hitherto it has not been possible to give either small holders or persons desiring larger areas for development purposes any real security of tenure. A new Regulation has, however, recently received the assent of His Excellency the Governor General, and will come into effect at an early date. Under this Regulation it will be possible to give grants of land with scope for development on a tenure which may extend to 60 years, while small holders will be able to obtain occupancy rights under easy conditions. Convicts who are cultivating holdings will not receive occupancy rights until the expiry of their sentences but will, if otherwise qualified, be entitled to receive them from the day of their release. The more liberal grant of agricultural tickets and the prospect of receiving occupancy rights has given a considerable stimulus to agriculture, and the area under annual crops had risen from 3,300 acres in 1921 to 6,400 acres in 1925, an increase of 94 per cent. Several hundred acres have also been planted with coconuts.

8. To complete the description of steps already taken to develop the settlement mention must be made of the efforts to induce convicts to import their wives and families and also the efforts to obtain convicts in Indian jails to volunteer for transfer to the Andamans. The attempt to provide a population by the settlement of married convicts has had little success so far except in the case of the Mappillas, but Government hope that further efforts may prove more sucessful. In the case of the Mappillas the scheme has proved an unqualified success. Of 1,133 Mappilla convicts 258 have been given agricultural tickets and have obtained their wives, children and other relatives from India to the number of 468. Applications have been received from a large number of convicts for their wives and families, and many of these are still awaiting disposal. The transfer of Mappilla women and children has been stopped for the time being and Government are still awaiting the report of some of the gentlemen who went to the islands in December last to see for

themselves the conditions in which the Mappilla settlers were living. That report when received will be carefully considered, but such information as is before the Government of India shows that the condition of the Mappilla villages already established in the islands is satisfactory and prosperous. The question remains, however, whether the Mappilla convicts who have not yet been able to obtain their wives and families are to serve the remainder of their sentences without them and the amenities which the presence of their families confer on them. It must be explained that the grant of agricultural tickets is to a great extent dependent on a convict having a wife and family to assist him, as experience has shown that a single convict cannot satisfactorily cultivate a holding by himself.

9. During the past eighteen months 276 men and 31 women convicts have gone as volunteers from Indian jails to the Andamans. The women have all been eligible for marriage, have selected husbands, and have settled down. The reasons why Government has encouraged this system of volunteering for service in the Andamans differ according to the sex of the convict. In the case of women it is to increase the female population, to provide wives for some of the convicts and thereby to enable them to settle on the land in the hope that they will remain permanently. In the case of the men it is to reinforce the dwindling ranks of labouring convicts and thereby increase the labour available for the work of the settlement.

10. As a result of their review of the progress made during the past few years the Government of India have decided to continue development along the present lines. In pursuance of that policy they propose to spend a sum of 4½ lakhs in the current and coming financial years on reclaiming certain swamps in the neighbourhood of the more thickly populated parts of the settlement. It has been definitely established that the principal local carrier of malaria is the anopheline *Nyssomyzomia ludlowi* which breeds in the back areas of the swamps lying within the residential area, and the reclamation of these swamps should result in a marked improvement in the health of the settlement. A fact which is not generally known is that malaria is not prevalent throughout the islands. It is unknown on Ross Island and as has been mentioned above is unknown in the forest camps in the North Andaman. It is, in fact, confined largely to the neighbourhood of the unhealthy swamps where the carriers are known to breed.

11. A sufficient labour force to carry on essential public works during the transition period must be maintained. For this purpose Government propose to continue on a somewhat more definite basis the system of obtaining volunteers from Indian Jails. Only well-behaved young convicts of the star class, in other words men whose crimes were committed under provocation or in circumstances showing no hereditary taint will be taken, and especially men of that class who are prepared to take their wives with them. After arrival in the settlement these men will be given tickets of leave after a brief period of probation. It is hoped that the semi-free life in the Andamans will attract a considerable number of volunteers.

The Government of India regard this policy as desirable not only from the point of view of the development of the islands themselves but also as an experiment in penology which will give selected convicts an opportunity of rehabilitating themselves in new surroundings. They learn with great satisfaction from the present Chief Commissioner that the policy which he has adopted, and which they heartily commend, of giving greater freedom to well-behaved convicts has resulted in a marked change in the general moral atmosphere. While the quota of work done is more than before, there is better behaviour, more happiness, more stamina, better health and very much less malingering. It must be made clear, however, that the intention of the Government of India is to test this method of recruiting labour for public purposes only so long as the local free population is insufficient to provide an adequate supply. While as mentioned above Government have for the time being stopped the transfer of the wives and families of Mappillas, they consider it essential to do everything possible to increase the female population of the islands and for that reason will not relax their efforts to get convicts other than Mappillas to obtain their wives from India.

12. The agricultural development of the islands has suffered from the artificial nature of the settlement and the lack of any security of tenure in land. The steps taken to give greater security have been explained above. In order to improve the system of agriculture and place expert advice within the reach of settlers, the Government of India have sanctioned the employment of an Agricultural officer and are at present trying to find a suitable incumbent for the post. The islands afford hopeful prospects for coconut plantations as they are free from the two main coconut pests, the rhinoceros beetle and the red weevil, and there is practically no coconut disease. Even without proper care or cultivation coconut trees give a rich yield and there is a good market for their produce. Liberian coffee is also successfully grown and commands a good price, while there is also a ready market for the low country tea grown in the Islands. Considerable prominence has been given in the Press in recent years to the possibilities of the islands for settlement by domiciled Europeans and Anglo-Indians. The Government of India are prepared to receive applications for land from these as well as from persons of other classes, but they consider it necessary to give expression to a word of warning by making it clear that the climate of the islands is definitely tropical and that any form of agriculture involving hard physical labour in such a climate is unlikely to be congenial to persons not accustomed to manual work in moist heat. For persons of these communities therefore a small plantation holds out the best hope of success and for that capital (not less than Rs. 5,000) is essential. For cultivators able to work small holdings there is plenty of good land available and Government are anxious to encourage settlers from India. Free labour can now be imported at moderate rates and Government itself has been successful in establishing a small but genuine settlement of some 30 Karen families in the middle Andamans. They hope

to be able to place several hundred more Karen families in the same locality where labour is required for forest work. A party of 160 returned emigrants from Natal recently arrived in Port Blair with the intention of settling in the islands and Government will welcome further parties of the same class who are prepared to accept local conditions.

13. Some reference must also be made to forest development. There are some 2,200 square miles of virgin forest in the Islands, two-thirds of which, or an area of over 1,400 square miles, is estimated to be capable of profitable working. The existing supply of mature timber of species which can be at present marketed at a profit is calculated to be about 10 tons per acre or 8,960,000 tons in all, while the annual sustained yield could be as much as 100,000 tons. The bulk of this timber consists of five principal species, namely, padauk (*Pterocarpus dalbergioides*), gurjan (*Dipterocarpus spp.*), dhup (*Canarium euphyllum*), badam (*Terminalia procera*) and papita (*Sterculia campanulata*). In addition to these main species lesser quantities of such hardwoods as white chuglam (*Terminalia bialata*), koko (*Albizzia Lebbek*), pyinma (*Lagerstrœmia hypoleuca*), black chuglam (*Terminalia Manii*), and of such softwoods as didu (*Bombax insigne*), *thitpok* (*Tetrameles nudiflora*), and lettok (*Sterculia alata*) will be available. The configuration of the country is exceptionally favourable both for the extraction and the shipment of timbers. The Forest Department at present employs about 1,000 labourers in its two divisions in the North and South Andamans and operates two saw-mills. During the past 5 years the average volume of timber exported has been only 6,000 tons per annum, though it rose to over 8,500 tons last year, of which 1,850 tons were sent to Europe, and a further considerable increase is expected in the present year. The existing plant is capable of an outturn of some 20,000 tons per annum, but it is obvious that, even when such an outturn is attained, the scope for development, given favourable market conditions, will still remain very large.

14. In conclusion the Government of India take this opportunity of expressing their thanks to the present Chief Commissioner, Lt.-Col. M. L. Ferrar, C.I.E., O.B.E., and the officers of the local Administration for the manner in which they have carried out their duties during a difficult period of transition. New problems are always presenting themselves and demanding solution but the Government of India feel confident that the local officers will continue to work with devotion and enthusiasm in the interests of the islands and those who are resident in them either as free settlers or as convicts.

ORDER.—Ordered that the Resolution be published in the *Gazette of India* and that a copy be forwarded to local Governments and Administrations for information.

J. CRERAR,
Secy. to the Govt. of India.

APPENDIX II.

The Report of the Andamans Deputation, 1925-26.

MEMBERS:

MAHMUD SCHAMNAD Sahib Bahadur, M.L.A.

SYED MURTAZA Sahib Bahadur, M.L.A.

Mir ABBAS ALI Sahib Bahadur, M.A., LL.B., Bar.-at-Law, M.L.C.

Dr. K. D. MUGASETH, L.M.S.

I. REPORT

BY

DR. K. D. MUGASETH, L.M.S.

Mapilla Colonisation in the Andaman Islands.

We arrived at Port Blair on 4th December and spent the next 4 days in visiting the new Mopla Villages. The climate of the Andamans is very much like that of Malabar. It rained on the 5th and 6th instants heavily reminding one of the Karkadam rains of Malabar and the muggy weather afterwards also same as experienced in Malabar. We visited Malapuram and Mannarghat villages the next day, where we were welcomed by a group of Mopla children in charge of their Teacher, all clean and well clad. Saw the school building where the children are taught Urdu, Malayalam and Koran Sheriff. The Mopla men and women were also clean and looked well. Their huts made of bamboo and thatched with palm leaves compare very favourably with the huts (chettapuras) we find about Kundungal and Velayil in Calicut. The land adjoining was under paddy cultivation. Some of the paddy being damaged by the heavy rains. It is a credit to the Mopla that he has cleared the jungle and brought the land under cultivation in such a short time. We also visited Knappuram where also same conditions prevailed. Small wooden mosques are being built at these villages. Some men and women of these villages told us that they preferred to remain on the Island with their families rather than go back to Indian Jails and be separated from their families but soon after they changed and said that they did not want to stay in the Andamans and that they preferred Indian Jails even if the families were starving in their own homes. Only one man at Knappuram said that he and his family would like to stay back even if all the others returned to the Indian Jails. At Calicut and Herbertabad same conditions prevailed. At the latter village

paddy seemed to be particularly good. Here the Moplas complained that they had no place if worship. None of the convicts wished to stay on the Island. They all complained that although they were promised full rations for all the members of the family coming out from India only the wives and children were given this. Father, mother, and brother of any of the convicts did not receive any rations at all. That they were not given full quantity of rations they were supposed to get. They also wanted cocoanut oil instead of mustard oil supplied.

I. They were much concerned that they got no remission of sentence as in Indian Jails which is as much as 36 days per annum.

II. That they are taxed grazing fees for their cows, goats, etc.

III. The Taccavi loan of Rs. 200 is to be returned by the end of the year with a interest at $6\frac{1}{4}$ per cent.

IV. That they are taxed Vigilance or Police tax.

V. No further loan is given to them in case of their bullock (ploughing) dying and they have to find means of buying fresh animals themselves.

VI. They have no occupation rights over the land they till and improve until 5 years after the expiry of the term of imprisonment. They wish to get free possession as soon as the term of conviction is over.

VII. Their rations are to be stopped 12 months after they become self-supporters, even if crop proves a failure.

The land is very fertile and there are very great opportunities of colonising in the Andamans. Paddy flats seem to be coming up very well, sugarcane, turmeric, tobacco, etc., grows profusely. Timber abounds in the forests, cocoanut plantations of the Government which are now leased over give a very good return to the lucky investors.

The free settlers seem to be doing good trade in the Bazaar at Aberdeen and one is able to feel the bon-homi in the place.

Malaria is very prevalent in the Islands. I saw several Moplas in the different villages with fever and others with spleens. According to Col. Christopher Malaria is said to be prevalent near the shore due to presence of the mosquitoes in the swamps. Attempts have been made to fill up the swamps and rid the place of fever. Col. Barker in his article shows the gradual and steady improvement of Malaria from the year 1919 to 1922, *viz.*, 14,828 in 1919; 2,600 in 1922 and this improvement is maintained. Mr. T. R. Govindswami Pillayi, Sub-Assistant Surgeon who has been working there for several years informs me that Malaria is growing steadily less and less. It cannot be gainsaid that as new lands are opened up and jungles cleared recrudescence of malaria is bound to come but with conditnual treatment, medical and hygienic this scourage which is not peculiar to the Andamans only, will be overcome. It has been declared that all the Quinine in the world is not sufficient for treating malaria cases prevalent in Bengal for one year at 80

grs. per head and still Bengal is one of the best paddy growing lands in India. Malaria, it is a well established fact, is a disease of poverty and goes in a vicious circle, side by side with sanitary improvements of the land and improving the general condition of the people living there I mean their stamina malaria will be overcome.

Even the capital of India, I mean Delhi, is not immune to malaria. So there is no reason to be scared and to condemn the Andamans because it happens that for the present malaria prevails there. Like Port Sweeteenham once a plague spot of malaria and now one of the most salubrious places of Malay all Andamans may also be freed.

A great deal has been said about the morality of the Andamans and no doubt in a place with such disproportion of men and women immorality of certain kinds do prevail. This will improve with the establishment of village life more families coming in and living together a healthy atmosphere will result naturally.

Recommendations.

1. Remission of sentences should be the same in the Andamans as in Indian Jails.

2. Petty taxes such as grazing fees Rs. 2-8 per annum on cows and 10 annas per goat should be abolished.

3. Taccavi loans should not be recovered for some years say 5, unless the self-supporter himself offers to return it. No interest should be charged on this loan for 3 years.

4. Police or Vigilance tax should not be demanded at all.

5. Land assessment must not be collected from the self-supporter for 5 years.

6. The self-supporter must have occupation rights over the land immediately his term of conviction ends.

7. Rations should be continued in case of failure of crops, even after a year.

In my opinion there are splendid opportunities for colonisation but a few convicts are not going to make the Andamans. Whilst colonisation by convicts is sound and should be encouraged it must be thrown open freely to anyone wishing to settle in the Andamans. The Islands have unfortunately acquired a bad name in the past and is not known to India except as a terrible penal settlement. This entirely mistaken notion of the place must be removed. Tourists and Colonists should be invited to see for themselves the splendid opportunities for the general colonisation. The place should no more be kept as a closed port, instead of one steamer plying to and fro and that under Government control; Port Blair should be made an open Port of call for all vessels and free trade allowed.

KOBAD D. MUGASETH, L.M.S., K.I.H.

II. REPORT

BY

MAHMUD SCHAMNAD Sahib Bahadur, M.L.A.

SYED MURTAZA Sahib Bahadur, M.L.A.

Mir ABBAS ALI Sahib Bahadur, M.A., LL.B., Bar.-at-Law, M.L.C.

Introductory.

1. The offer of the Government of India to select two Moplah gentlemen to visit the Andamans so that they might see for themselves the conditions under which the Moplah convicts are being settled on the lands there was first made to one of us in Home Department letter No. D.-2008 (Jail), dated Simla, 22nd September 1925. The appointment of the present deputation however was communicated in Government of Madras (Law), D. O. No. 4300, dated the 19th and 20th November 1925, which stated that the Government of India have accepted the proposal that Mahmud Schamnad Sahib Bahadur, Syed Murtaza Sahib Bahadur, Mir Abbas Ali, Dr. K. D. Mugaseth should form the members of the deputation which is to proceed to the Andamans in connection with the Moplah Colonisation Scheme.

The terms of reference are set out in the Government of India Home Department's letter No. 188/24 (Jail), dated Delhi, the 26th November 1925.

2. Having received the necessary papers from the Secretary (Law) to the Madras Government, we reached Calcutta on the 30th November and sailed on the 1st December per "S.S. Maharaja" for the Andamans reaching Port Blair on the noon of the 4th. We met Lt.-Col. M. L. Ferrer, C.I.E., O.B.E., I.A., Chief Commissioner, Andaman and Nicobar Islands, the same day and drew up the programme for the remaining days of our stay in the Islands.

3. The rest of the day was spent in studying the local conditions with the help of the books and other literature placed so kindly at our disposal, while the following five days were fully utilised in visiting the Moplah villages. There are nine of these, *viz.*, Mannarghat, Mallapuram, Knappuram, Calicut, Manpur, Nayashahr, Herbertabad, Hashmatabad, and Muslimbasti. We were able to visit almost all the Moplah villages with the exception of Hashmatabad which had to be dropped on account of its inaccessibility. We made elaborate and impartial enquiries, the result of which are set out in the following pages. We propose to examine the suitability or otherwise of the Islands for Moplah Colonisation under three heads: (1) Economic, (2) Sanitary and Climatic, and (3) Moral Conditions.

Economic Conditions.—(*i*) Andamans remain to this day a penal settlement. No serious attempt was ever made to throw it open for Colonisation by free settlers. Even now no man can enter the Islands without a permit and none could leave without one. No person whether free or convict can send or receive any letter without censorship. The Communications with India are few and we believe "S.S. Maharaja", a Government Chartered Steamer, is the Chief steamship that plies between these Islands and the main land. Excepting paddy and an inferior variety of sugar-cane, nothing of any commercial importance grows on the Islands (excluding timber which is a Government monopoly). Indeed no serious attempts seem to have been made to make the colony a self-supporting one. The bare and ordinary necessities of life have to be imported from India at great cost. Even such things as onions, garlic, ginger, pepper, chillies, etc., etc., have to be imported. It is not surprising therefore that the prices ruling in the Andamans should be high, many articles selling fully 150 per cent. dearer than in India. Potatoes are 300 per cent. dearer. There are neither openings for nor immediate prospects of an indigenous internal trade developing. The only place of any commercial importance is Aberdeen where almost all the shops are located and most of the trade of the Islands is in the hands of the free-borns (*i.e.*), children of convicts settled there, and their prosperity depends exclusively on the continuance of Andamans as a penal settlement.

(*ii*) In the Islands there are no villages of the type with which we are familiar. The elements of ordinary Indian village life are absent. The few villages that there are, are not self-supporting economic units. They are a conglomeration of heterogenous mass of habitations, drawing their strength if any and inspiration from the fact that they share a common exile in a strange land far away from their homes. They have no common aim or ambition. Their senses are atrophied, their development cramped and stunted. Nothing better could be expected when men preponderate to women in the ratio of 10 to 1 in these villages. To set up Moplah villages in such surroundings will be a cruel mockery.

(*iii*) The Moplahs are not members of a jungle tribe with nomadic or roving instincts. They are members of a highly developed and organized society having reached the advanced Indian type of civilisation and as such need many comforts for their happiness and prosperity. None of these are available to them in the Islands. In almost all the Moplah villages we visited, the women complained that they were lured to enter these Islands by false promises. They had absolutely no money to buy anything that would give them comfort or soften the rigour of their exile. They got the same bare rations as their convict husbands and it is well known that convict rations are neither too liberal nor too good, each child getting half as much. On the other hand, no rations were given to the dependents such as aged parents and helpless brothers, who are also said to have been similarly lured and who had

to live upon the rations of the convicts and there are quite a number of these dependents who do not get anything at all.

(*iv*) The women without any money to supplement their many wants and needs were forced to sell away good bits of not only their rations but also of their husband's and children's and the prices realised are none too large as convict rations do not command good prices. In Malabar these women could always maintain themselves in a certain amount of comfort. There were many avenues of occupation and employment that they could always be sure of getting something which kept the wolf from the door and helped them to get on. All these are denied to them in these Islands. There are no occupations for them and even if there were, they have to walk miles and miles before they could get one. If once these destitute women were driven to seek employment in villages where men preponderate to women in the ratio of 10 to 1, the very object of segregating and isolating these Moplah villages and prohibiting others from entering them would become infructuous and futile.

(*v*) The women complained that in spite of strictest economies, they could not make both ends meet. The Moplahs are used to a mixed diet but they had no meat or fish for months at a time and even if the stuff should be available, the prices are so prohibitively high that it is impossible for them to buy. The children too are deprived of these small luxuries which they could always get at home in abundant quantities at a very reasonable price. The women complained that the Islands did not hold out any future for them or their offsprings. They are branded as wives of convicts and their children as offsprings of prisoners.

(*vi*) Most of the villages are located in recent jungle clearings. The whole day thousands of parrots cause havoc with ripe corn and at nights wild pigs destroy what little is left. An incessant vigil has to be kept day and night to safeguard the precious crop of a few bags of paddy, the result of months and months of labour and patience.

(*vii*) The soil in most places is stiff clay and crops look nice, but when examined carefully the ears of corn show that half of them are empty chaffs. This is chiefly due to want of phosphoric manure, such as bone and fish guano, none of which is available in the Islands. They have no agricultural experts to advise, guide or control. It is doubtful if the meagre yield of paddy from their dismal plots will ever give them enough to do away with State aid and to become self-supporting. Further the Moplahs in these villages are constantly in dread of that ever-present, mysterious and elusive enemy, the Jarawa. The Jarawas form one of the tribes in the Island, the most hostile in opposition to the settlement of the colonists. They could feel him, hear him, and yet could not see him. The air is full of him. In short he is everywhere and yet nowhere. The dread of this mysterious foe and still more of his lethal arrow is so great that none dare venture more than a few yards of their holdings both by day and night. Fight-

ing this enemy on even terms would be possible only if the Colonists are armed and the jungles cleared—but the very atmosphere of a convict Island rules out the possibility of arming.

Taxation.—The taxation also appears to be heavy. The Moplah convicts in the villages have to pay Rs. 3 per year as hut and Chowkidari tax, Rs. 2-2-0 for every head of cattle and annas 10 for every head of sheep or goat. Rs. 25 is the price per 1,000 leaves used for thatching their roofs and land-tax ranges from Rs. 1-8-0 to Rs. 6 per acre in addition to an education cess of 1 a. 3 ps. to 1 a. 6 ps. per rupee on the land-tax. To most of the Moplah Taccavi loans of Rs. 200 were given to enable them to buy bulls and interest is charged at the rate of $6\frac{1}{2}$ per cent. from the very first year and they are expected to repay the loan spread over a period of 4 years. We wonder how it could be possible for these destitute Moplahs living on the doles of the Government to pay these taxes and repay the loans. Under the Andaman circulars no convict can become owner of land. He can become one only after he has continuously cultivated the land for a period of five years after his release which is said on paper to be after a period of 20 years.

(*viii*) The Moplahs have no desire to stay in these Islands so long. Indeed every one of them, expresesd to us a desire and longing to get back to the Indian Jails. To them Andamans has become a land of despair. The prisoners in Andamans never get any remissions, nor to they come under the healthy influence of the revising board and non-official jail visitors. In Indian Jails, liberal remissions are granted and it is quite common for convicts sentenced for life being released after 14 years, but in the Islands men sentenced for life ordinarily serve 20 long dreary years and a few months before the expiry of their sentence, the C. C., we understand, makes a reference to the Local Governments concerned if they are willing to receive the convicts whose terms are about to expire. Quite often the Local Governments are unable to do so with the result that they are kept under observation for a further period of five years and so on. So much so, it is not uncommon to see old men who have put in 30 years, languishing and rotting without any hope of escape or a chance of seeing their native land.

(*ix*) Indeed the root idea of conviction, *viz.*, reformation has been lost sight of and vindictiveness has taken its place. The Moplahs have come to know that in these Islands they will never—never be released. They dread and shudder at the prospect of staying for good with their families in these unhealthy Islands. We found the Moplahs sullen, morose and discontended. We are afraid the Moplahs will not make good Colonists. They do not love the land which they are forced to adopt and they look upon anything that smacks of permanent settlement in the Islands with extreme suspicion and hostility. Free colonisation may be a gorgeous adventure, but settlement in foreign lands without option is the nightmare of tragedy. For the same reason they have not started praying in the mosques built for them in Mallapuram and Knappuram.

(*x*) The Moplah convicts and their families lack the zeal and enthusiasm of pioneers which and which alone will make the Colonisation Scheme successful. It will take years and years before the Moplahs could ever become self-supporters and not before considerable sums of money had been spent in maintaining them and their families.

(*xi*) We wonder if the Government would be justified in spending lakhs of rupees of Indian Tax-payers' money in keeping these sulky indifferent and unwilling colonists in these Islands with a perpetual agitation for their release at home. It will not be possible to improve the economic conditions of the Islands without considerable outlay. If it is possible to find so heavy an outlay, we feel the money could be better utilised in the construction of new jails, in the improvement of existing jails in India, and also in creating a free settlement in the Andamans. We would not, therefore, recommend the expenditure of further sums of money upon the development of the present system of convict settlement.

Climatic and Sanitary Condition.—(*i*) Andamans have been known from time immemorial as an unhealthy, pestilential and deadly malarial place inhabited by savages roaming about the jungles with which the Islands are richly covered, in a state of absolutely nudity, ever ready to kill at sight with their deadly arrow any human being venturing to intrude on the privacy of their haunts. The Islands are 200 miles from Rangoon and 800 miles from Calcutta and 700 miles from Madras. Though close to the main land of Burma no attempts have been made to colonise them, nor were the Islands unknown to the ancients. They were well known to the Arab and Malay corsairs and indeed many a pirate in olden time had found a safe haven in the many calm creeks and harbours with which the Islands are intersected. The climate of the Islands is enervating and depressing in the extreme.

(*ii*) The Islands are inhabited by some 6 tribes, *viz.*, the Ongs, Andamanies, Jarawas, Kols and a few others. The aboriginal population has never shown any tendency to increase at any time. Even before the impact of modern civilisation they were not numerous. Even at the present day all the six tribes together do not number more than 6,000 and odd souls.

(*iii*) The climate has always acted as a check on their growth. The paucity in their increase and the failure on the part of the more virile people of the main land to colonise these extensive and fertile Islands all lead to only one conclusion, *viz.*, these Islands are unhealthy.

(*iv*) Coming to modern times the settlement as at present was constituted on or about the year 1857 when the Government had a number of prisoners on their hands who were convicted in the Great Indian Mutiny, and who could not be otherwise disposed of. There are many and numerous records to show that the Islands have always been regarded as unhealthy and various attempts seem to have been made to make the place as healthy as

possible. In spite of costly attempts the Islands have remained to this day unhealthy and malarial. The chief cause of mortality is malaria and supervening dysentery brought on by a debilitated constitution and lowered stamina. This is, we believe, one of the reasons which prompted the authors of the Jail Committee Report to recommend to the Government the closure of these Islands as a penal settlement. Indeed when the Jail Committee made its enquiries the then known cause of malaria seemed to have been only *Anopheles-Ludlowi* which bred in the Salt Swamps. So impressed were they with this theory that they proceeded to state in para. 603 of their report, "It is generally agreed that the most important cause of the ill-health which has marked the settlement of Port Blair, is malaria, which, as we have already said, is conveyed by a species of mosquito breeding in the Salt Swamps on the coast. The swamps owe their saltness to an inflow or infiltration of sea water and therefore exist only near the sea. The mosquito in question breeds only in the saline or brackish water of these swamps and is not found much more than half a mile from them. Had the founders of Port Blair known these facts, they would have placed their buildings a mile or so back from the sea and would thus have avoided this pest, a course which has been followed with fair success in regard to the forest camps in the middle Andaman." Thus the authors of the Jail Committee lost sight of the fact that other malaria-carrying Anopheles could breed in greater numbers in the many fresh water swamps, bogs, puddles and pools in which the interior of the Islands abound; and as a matter of fact while considerable sums are spent in draining off the salty marshes, new varieties of malaria-carrying Anophelines make their appearance in unexpected quarters thus adding greatly to the difficulties of the officers who are striving to make the Islands free from the disease.

(*v*) The Senior Medical Officer in the Administration Report of the Penal Settlement for 1922-23 at page 33 states:—

> "1. Malaria cases mostly occur during the rainy season when other *Anophelines* besides *Ludlowi* are very numerous; *Ludlowi* being a breeder in Salt Swamps has suitable conditions for breeding all the year round: other varieties breed during the rains in fresh water. They are very numerous then, and are practically absent during the dry season. It is during the season of greatest prevalence of other Anopheline mosquitoes, besides *Ludlowi* that most cases of Malaria occur.
>
> "2. *Pharagoan and School lines.*—Both remote from Salt Swamps showed a considerable number of admissions for Malaria. Anophelines—not of Ludlowi type—were numerous there.
>
> "3. The new barrack at Namunagar, on a site away from the area of operations of Ludlowi, showed more cases of Malaria than Dundas Point, situated near Salt Swamps. Every little fresh water puddle near Namunagar

barracks, however, swarmed with Anopheline larvæ during the rains.

" 4. The inhabitants of the Police Lines on Aberdeen, remote from the Salt Swamps, suffered as much from Malaria as the inhabitants of Aberdeen whose houses border the Salt Swamps.

" 5. Middle Point barracks showed a higher percentage of admissions for Malaria than Navy Bay which is adjacent to a Salt Swamp."

(*vi*) Again the Administration Report for the year 1923-24 says at page 41 :—

" In 1922 report it was pointed out that though Ludlowi may still be the chief carrier of Malaria, other Anophelines must not be ignored—this year large number of cases came from the areas undergoing clearing and *from newly-built villages not close to the Salt Swamps*, lends force to this fact. Also in Viper District a fuliginosus variety, Nivipes, made an early appearance in large numbers and this is a known Malaria carrier ",

and at page 39 it goes further and states :—

" It is difficult to compare faithfully this year's health with that of previous years' owing to the changed conditions and the transfer of debilitated and sick convicts to the Indian Jails. That it was a bad year for health cannot be gain-said. The factors mentioned in last year's report as accounting for the general improvement in health have," the Senior Medical Officer states, " been in operation throughout this year also, but in spite of them the sick-rate and still more the death-rate has gone up considerably. Bowel diseases and Malaira are almost entirely accountable for this increase. Of the bowel diseases causing ill-health, dysentery easily heads the list."

During visits to the Moplah villages, we found conditions similar to what is stated above existing there. We confess we were not impressed with either the location or the surroundings of the Moplah villages. The villages were scattered hither and thither far away from the hospitals, and far removed from the main artery of the settlement, *viz.*, Aberdeen. The huts are miserable hovels constructed flush with the ground unlike the other buildings, on raised platforms in spite of the Jail Committee's recommendation in paragraph 625 that these houses should be built of planks or other substantial material. The floor of these houses were damp, wet and slushy, and yet these unfortunate women and children had to sleep on them. The women and men all complained that at one time or other without any exception watsoever they were down with fever. The fever evidently was of a virulent type as it left them completely weak for weeks. We

quite believe their statements. Ill-clad, ill-fed, badly-housed, it is a wonder that these unfortunate people ever survived the attacks of millions and millions of mosquitoes to narrate their woeful tale. In the village of Herbertabad, our colleague Dr. Mugaseth found a number of men actually suffering from fever. There was no medicine for them and there is no conveyance of any sort in that village that could take these fever-stricken people to the hospitals. Only as a last resort are they taken to the hospitals; and in the village of Nayashahr almost all the children had enlarged spleens. These villages are far away from the operations of Anopheles Ludlowi. The Moplahs both women, children and men looked pale, ill-fed and emaciated with an hang-dog look about them. Certainly 2 years' stay in these Islands had considerably told on their constitution. They are not the same robust men, one is won't to see in their native homes. The nature of their work, *viz.*, cultivation, does expose them to a considerable extent to wind and rain and unless they are propely fed, clothed, housed and shod, we are afraid they would all fall easy victims to Malaria. The Moplah villages we visited had no wells provided for them and the drinking water was mainly to be had from some polluted jungle stream. The water naturally did not agree with them. There were no latrines. They one and all expressed to us a wish that they should be sent back to the Indian Jails and their wives and children to their respective villages. It appeared to us that they sincerely preferred the thraldom of Indian Jails to the disastrous freedom of the Andamans. It is indeed a pity that in selecting the sites for Moplah villages the local authorities had not the advice and guidance of an agricultural expert acquainted with the Moplah country. The villages as stated above are far away from Aberdeen the chief commercial centre. They are located near Swamps in low valleys close to thick forests. Some of the villages were practically inaccessible so much so we could not visit Hashmatabad. The country we had to traverse to reach these villages was leech-ridden and the feet and legs of almost all the men who accompanied us to these villages were bleeding as a result of these leeches. The decrease in the percentage of Moplah admissions in the Hospitals proves nothing. It is physically impossible for these men, women and children to walk miles with a devastating fever on them to the nearest hospital. As a matter of fact they preferred to remain in the midst of their kith and kin, when they had the fever, to walking miles and staying in hospitals. We made other independent enquiries and they all go to confirm our view that the Islands at present are not a fit place for Moplah women and children.

Moral conditions.—From 1870 onwards it was known to the Officials that the state of morals was shockingly low in the penal settlement and various Officers at different times made different suggestions to remedy this evil. As the authors of the Jail Committee state, the Government of India in September 1914 remarked that the history of the settlement provided ample demonstration of the fact that the moral standard of the community was incapable of improvement so long as the number of women bore so small a

proportion to the number of men, and they themselves finally state in paragraph 552 of their report, " It is not necessary to quote further opinions on this subject in order to establish the fact that the present position of morality in the Andamans is bad and that no reform would have any chance of being successful unless the introduction of an adequate proportion of women was assured." When the above was written the proportion of men to women was 6 to 1.

The publication of the Jail Committee's Report created so much stir, that the Government decided gradually to abolish the penal settlement and convert it into a free colony. We understand that in pursuance of this policy, all the women convicts were sent back to the Indian Jails of their respective provinces and no more women convicts were brought into these Islands thereafter and as a matter of fact the female jail was closed and the building was handed over to the Local School.

The result has been that the proportion of men to women has increased as is seen from the following:—

In Ross District there are 8 villages containing 330 males and 77 females. In Haddow District there are 13 villages containing 284 males and 21 females. In Viper District 24 villages contain 1,124 males and 120 females. In Ross District there are five villages with 133 males and *no females*. In Haddow 6 villages had 518 males and 16 females, and again in Viper District 5 villages had 194 males to 4 females, and the Cellular Jails had 8 males and 3 females. The total is 2,591 males and 241 females. Such was the state of affairs up to 31st March 1913 existing among the self-supporting convicts. There are still 7,000 and odd convicts in the Andamans and the extent of unnatural vice prevailing there is simply appalling. As regards the morals of the free-borns, the picture is no better. The Andamans District Gazetteer of 1908 at at page 126 recites as follows:—

> " A large proportion of the free-settlers are local-born (*i.e.*) descendants of convicts born in the settlement and permanently resident there. Like every other population, the local-born comprise every kind of personal character. Taken as a class they may however be described thus: as children they are bright, intelligent and unusually healthy."
>
> " As young people they do not exhibit any unusual degree of violence and inclination to theft, but their general morality is distinctly low. Among the girls, even when quite young, there is a painful amount of prostitution open and veiled the result partly of temptation in a population in which the males very frequently preponderate, but chiefly due to bad early associations, convict mothers not being a class likely to bring up their girls to high pitch of morality."

This was the state of affairs in 1908 and the situation to-day as disclosed by our own close observation and intimate enquiries is

worse. Even married women, when quite young, pass hands just like ordinary currency. Under the Andaman Rules and Regulations no lawyer can come or settle in these Islands and advantage was taken of the presence of a Lawyer member in our deputation and quite a number of people came to seek legal advice, about women being married twice and thrice without obtaining divorces, etc.

Several of the free-born told us that they found great difficulty in procuring decent girls for marriage. No self-respecting man would care to marry his daughter to a free-born who carried with him a brand of convicts' son, much less would he consent to send his daughter to the Andaman Islands which to them is synonymous with a living grave. It would appear up till now 1,302 Moplah convicts have been sent to the Andamans of whom 90 had died and 79 had either been released or transferred to Indian Jails; of the remaining 1,133, 754 are labouring convicts, 258 self-supporters living in villages and 121 self-supporters living and eking their livelihood elsewhere.

The settlement contains a goodly number of extremely, comely and young Pathans and the general hunger for women is strong and the competition for the exclusive possession of women for ever so short a time is very keen. We do not wish to dwell further on this most painful and distressing subject. The moral atmosphere of the Islands is demoralising, putrid, foul and shocking. To such an atmosphere and situation of great peril we will never make up our minds to recommend to the Government of India the desirability of importing Moplah women and children, however, desirable it may be from other stand-points. If not for anything else on this ground alone we, as Mussalmans, to whom religion and morality go hand in hand, recommend the abandonment of the Scheme and shall press that the Moplahs be repatriated to the Indian Jails and the women and children sent back to their respective villages in Malabar.

It is indeed a pity that the lesser local authorities never allowed the Moplahs to speak out their minds freely in the way they did to us, when the Hon'ble Sir Alexander Muddiman, Home Member to the Government of India, visited the Island recently. We questioned them on this point and the Moplahs told us that the Tahsildars threatened them that if they ever complained they would be sent back either to the Cellular Jails or to gang work, and out of sheer fear they dared not give free vent to their feelings. We quite believe them, in the light of what we ourselves experienced. In the villages of Mallapuram and Manarghat, the Moplahs were shy of narrating what they had to state in the presence of the Officers and the District Officer when he came to know of this very kindly withdrew with his subordinates thus giving them an opportunity of ventilating their real feelings. The next day a party of 25 Moplahs, it seems, came with some written complaints to be presented to us at our residence in the Circuit House, Ross Island. One of the Tahsildars turned them back and took two of

the party to the Chief Commissioner with instructions to them to make allegations against the Members of the Moplah Deputation to the effect that one or two of them advised them to state that they preferred the Indian Jails as they would get remissions there. Statements to some such effect are said to have been taken from them by the C. C. This is very unfortunate. We had come to the Islands at very great personal inconvenience and pecuniary loss to discharge a public duty. We came with no preconceived notions. We had no axes to grind. We know that owing to the peculiar, social and agrarian conditions prevailing in Malabar a good proportion of the Moplahs were condemned to perpetual poverty. We were anxious, if possible, to relieve the economic pressure in Malabar by advising the Government to send the Moplahs to the Andamans if the place was suited to them; but by a strange irony of fate the local authorities misunderstood our mission and seemed to have viewed our movements with suspicion, with the result that the Chief Commissioner sent a note to us next day that we should interview the Moplahs in the presence of Mr. Meneand, the Jailor, and Mr. Govindan, the Tahsildar; to which we readily consented. Accordingly during the rest of our interviews the Officers were always present. In the village of Manpur, the Moplahs told us in the presence of the abovementioned Officers that they dared not speak out freely as that would amount to making a complaint against the Officials present, that the members of the Moplah Deputation would go back within a few days and that they would have to suffer for their indiscretion; but on the Tahsildar assuring them that no such penalties would be visited them, they one and all bitterly complained about their lot and the difficulties they had to contend.

Finally we cannot conclude our report without placing on record our deep sense of gratitude to the Chief Commissioner, the Deputy Commissioner, Revenue Assistant Commissioner, the Tahsildar assuring them that no such penalties would be visited courtesy and for the trouble and pains they took to make our stay in the Islands as pleasant and comfortable as possible.

We beg to remain,
Your most obedient Servants.

ABBAS ALI KHAN.
S. MURTAZA.
MAHMUD SCHAMNAD.*

ADDITIONAL NOTES.

While fully endorsing the views mentioned in the joint report I wish to add the following notes.

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* Subject to additional notes.

The letter of the Government of India, Home Department, No. F.-188/24-Jails, said to contain the terms of reference, will be found in Appendix A.

1. No committee seems to have been appointed to enquire, nor does any proper investigation seems to have been made into the conditions in the Andamans before the Indian Jails Committee was appointed in 1909. This Committee composed as it is of eminent men of varied experience and vast knowledge of prisons went into the questions of Jail administration, transportation and the conditions in the Andamans so thoroughly that they produced a clear and exhaustive report which has, I think, to be considered an authoritative document on the subject. The Committee has come to the conclusion that the Andamans as a place of transportation for prisoners should be abolished.

2. Port Blair consists of several villages within a distance of 10 to 15 miles in the Southeast corner of South Andaman. The Chief Commissioner lives at Ross, a small island at the mouth of the harbour. Across the channel on the main island at a distance of less than half a mile lies Aberdin which is the chief place of business in the Andamans and almost the only bazar in the islands.

3. The villages in which the Moplahs are settled are in the interior in the midst of thick forests, some of which are frequented by the hostile Jaravas, who take pleasure in killing any stranger they meet and the casualties include Moplahs also. Most of the agricultural lands allotted to the Moplahs are miry, low-lying, unhealthy valleys covered generally with bushes and shrubs and sometimes big trees also which they have to clear and level before bringing it under cultivation.

4. On the 5th of December we visited in the company of Mr. Robertson, Western District Officer, Mr. Heath, Jailor and the three Tahsildars one of them being a Malayalee, the villages of Mannarghat, Malappuram and Knappuram. As soon as we reached Mannarghat the Moplahs there young and old, men and women, all came to us with tears in their eyes and told us that they have been told not to tell us anything about their difficulties and therefore they were afraid to make their representations in the presence of the officers. As soon as Mr. Robertson who appeared to be a quite disinterested and impartial officer came to know of this, he called the other officers away and allowed the Moplahs to explain to us their grievances when one and all of them told us that the place was very unhealthy, all of them had fallen ill and were feeling weak on account of Malaria, and several of them had enlarged spleen although most of them had scarcely fallen ill in their own homes. We explained to them that there is no chance of their being released, and we have no power even to recommend their release and it would be better for them to work on those fields and live there with their families enjoying the liberty they had rather than be kept within the four walls of the Jails in India. It may be even the Bellary Jail which is noted for its cruel treatments as some of you might have already experienced. They repeatedly

told us that they would prefer any other place in India to this and therefore their prayer was that they might be transferred to any jail in India.

5. In Mannarghat and Knappuram also similar tales were told. The people here also affirmed their desire to be transferred to any jail in India. In the evening we returned to the Circuit House.

On the 6th we visited Calicut village in the company of two Tahsildars one of them being the Malayalee.

On the 7th we visited the villages of Muslim-basti, Manpur, and Herbartabad. Here we were accompanied by Mr. Meneand (Jailor) the Malayalee Tahsildar and another Tahsildar.

On the 8th we visited Nowshahr and on the 9th morning we went to the Saw Mill on the Chatham island and saw some self-supporting Moplahs who were working there.

6. The prayers of the Moplahs were everywhere the same. They wanted to be transferred to some Indian Jail. Though we put to them the two alternatives of going to Indian Jails or of remaining in these villages with all the irksome taxes and other restrictions removed, yet they said they preferred going to the Indian Jails.

7. On the 6th there was an incident. On our way to Calicut village we had to pass along a convict station at Middle point and one of us suggested that some of the Moplah convicts there might be questioned whether they would like to take self-supporter's ticket and settle in villages. Because the labouring convicts of to-day are the self-supporting villagers of to-morrow. So we asked one of the Tahsildars—accompanying us to get the necessary permission. But we were told that permission could be obtained by the time we return from Calicut village. Therefore we stopped the Motor lorry on our way back from Calicut at the gate of the Middle point station and being told that permission had been obtained, got down from the lorry. While we entered the gate we saw the Moplah convicts there standing in a line. But we did not ask them to fall in. Within about 2 minutes of our arrival there, the Chief Commissioner who happened to pass by, entered the station while some of us were questioning a few of the Moplah convicts of whom there were more than one hundred there. The Chief Commissioner told us that it was not within the scope of our enquiry our terms of reference relate only to the Moplahs in the villages and he would like to discuss with us the question on the 7th.

8. On the 7th evening, however, we got an urgent letter asking us why we entered the Middle point station when our terms of reference did not include this. This letter and my reply to it are given in Appendix B. I had asked in the reply to allow us to see at least one more convict station and at least one Hospital. But that request also has been disallowed by the Chief Commissioner, as will be seen from the 2nd letter in Appendix B.

9. Although special care was taken by the Tahsildars on the 6th, 7th and 8th, yet only the village Headman and 2 others in

Herbertabad, 2 in Muslim Basti and one in Manpur told us that they did not wish to be transferred to the Indian Jails. These 5 also did not want to remain if others were to be transferred. But these were specially brought before us by the Malayalee Tahsildar, Mr. Govindan.

10. I had written to the Chief Commissioner to supply us a copy of Major Murray's evidence, the Andaman and Nicobar Manual, the Andaman Administrative rules or circulars and some figures, etc., for the purpose of making our enquiry more thorough. Although he supplied to us some figures we were not allowed the use of the other records. This letter and the reply of the Chief Commissioner will also be found in Appendix B.

11. As soon as the convicts are sent to the Andamans for some months,—now generally three—they are kept in prisons or Cellular Jails, and then they are removed to different convict stations or barracks. Here they are given daily rations and employed in making roads, clearing forests and doing the different kinds of menial work in the houses of the officials, etc. In addition to the rations they are given at the rate of from As. 8 to Re. 1 per month. Though the daily ration ought to consist of 24 ounces of rice, 4 ounces of dhal, $\frac{1}{2}$ an ounce of mustard oil, 1 ounce of salt and masala yet very often most of them do not receive as much.

12. Some times some deserving labouring convicts receive tickets of leave and are allowed to live in some particular places as self-supporters and when the Government wants to employ them they are paid at the rate of Rs. 11 per month. Although this amount is not at all sufficient in a place like the Andamans where everything is very dear.

13. When these poor Moplahs fall ill and are admitted into the hospitals they are to pay at the rate of Rs. 8 per month for the number of days they remain in the hospitals. If they die, their dead bodies are taken to the hospitals subjected to post-mortem, and given to the Thoties for burial—thereby depriving them from burying their dead according to their religious rites. If one has to go out of his village he has to get a permit. I have also been told that if a self-supporting woman has to deliver she is forced to do so only in the hospital. If one wants to marry both the contracting parties have to undergo medical examination and get the permission of the Medical Officer. The Chief Commissioner, however, told me that most of the restrictions that we found were remnants of olden days. He could abolish some of them himself, some others for which he requires the sanction of the Government of India, he had already recommended to the Government and he was only awaiting their orders.

14. Though the Jail Committee have strongly expressed their opinion, that the future of the Andamans as a penal institution should not be decided on the basis of the actual or potential value of the islands as a commercial or industrial proposition yet the present tendency is to make use of the convicts for exploiting the resources of the islands by inducing the convicts to colonise. It

is complained that in consequence of this tendency very difficult work is assigned to labouring Moplah convicts in order to induce them to bring their families and settle in the villages. To those who agree to so settle, self-supporters tickets are given and some lands assigned in one of the outlying villages.

Before concluding these notes, I wish to make it clear that we have no complaints against the officers; the Chief Commissioner seemed to be very kind and sympathetic to the Moplahs. It is the system we are blaming. They are bound by the system and the rules which are scarcely revised.

MAHMUD SCHAMNAD.

APPENDIX A.

Letter containing the terms of reference.

FROM T. SLOAN, ESQUIRE, I.C.S., DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, TO MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., No. F.-188/24-JAILS, DATED THE 26TH NOVEMBER 1925.

I am directed to inform you that the Government of India have been pleased to agree to your proceeding to the Andaman Islands to examine the conditions and circumstances of the Moplah villages recently established in the Islands.

2. The Government of India will be glad to receive from you as soon as possible after your return to India any recommendations or suggestions that you desire to make in regard to the Moplah settlements.

APPENDIX B.

First letter referred to in paragraph 8 of my notes.

FROM LIEUT.-COL. M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, TO MR. MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., No. 3787, DATED THE 7TH DECEMBER 1925.

I desire to draw your attention to the Government of India (Home Department) letter No. F.-188/24-Jails, dated 26th November, which was delivered to you on Saturday afternoon the 5th instant and a copy of which was sent to me by Government. The terms of reference are clear and relate only to the Mapilla villages recently established in these Islands. I would accordingly be glad to be informed by you why you entered Middle Point Station on the afternoon of the 6th instant and held a parade of the labouring convicts there.

2. I would be glad to know whether you have visited any other convict barracks and whether you have conducted any enquiries among labouring convicts other than at Middle Point.

3. I would ask you to favour me with an immediate reply.

My reply to the above referred to in paragraph 8 of my notes.

FROM M. SCHAMNAD, M.L.A., KASARAGOD, TO LIEUT.-COL. M. L. FERRAR, C.I.E., O.B.E., I.A., DATED THE 8TH DECEMBER 1925.

With reference to your letter No. 3787, dated 7th December 1925, I have the honour to inform you that although we had no definite Terms of reference, the question referred to us seems to me to be very comprehensive in scope. We are required in my opinion to inquire and find out the suitability of the Andamans for Mopla settlement. For telegram (Home Department, Government of India) sent to me after the letter dated the 26th November 1925 referred to by you in your letter says that our inquiry is about the question of Mopla settlement. The first letter informing me about the appointment of this deputation and asking us to sail by the S.S. "Maharaja" on the 2nd November from Calcutta, sent to me by the District Magistrate of Malabar, stated that this deputation was appointed in accordance with the resolution of the Madras Legislative Council, which was to the effect that the scheme of colonising the Andaman Islands with Moplas should be suspended pending the report of the committee to be appointed to investigate the question.

Home Department telegram, dated 26th October 1925 sent to me, also refers to this resolution of the Madras Legislative Council, as the cause for arranging for this deputation.

Under the circumstances I am of opinion that in order to find out the suitability of the Andamans for Mopla settlement, it would be necessary to inquire both from Mopla self-supporting and labouring convicts as well as others, the different questions connected with the same.

Although Home Department letter above referred to (F.-188/24, dated 26th November 1925) mentions only examining the conditions and circumstances of the Mopla settlements, yet I am of opinion that in order to find out this we will have to inquire the same both from self-supporting and labouring convicts.

As regards our going to the Middle Point station I have to inform you that while we were going to visit Calicut village on the representation of some one, one of us desired to inquire the question from the Mopla convicts there. Then another member of the deputation asked the Tahsildar accompanying us to get the necessary permission, and the Tahsildar said that the permission may be obtained before we return. On our return we were told permission had been obtained and we saw the convicts there stand-

ing in a line. We never asked them to fall in. Then we got down from the lorry, went towards those men and inquired from 3 or 4 persons. Within about 2 minutes of our arrival there, you happened to pass by. This is all that took place there. We did not visit any other convict barrack. But we wanted permission to visit one more convict barrack also, preferably the Ross barrack. I am still of opinion that for the purpose of arriving at a correct conclusion, it would be necessary to visit barracks and hospitals also. Therefore I would request you to give permission to visit the Ross barrack and hospital to-morrow morning.

We did not hold any special inquiry among labouring convicts except hearing what some of them represented on our way, etc.

Chief Commissioner's reply referred to in paragraph 8 of my notes.

LETTER FROM LIEUT.-COL. M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, TO MR. MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., DATED THE 9TH DECEMBER 1925.

Your letter of 8th instant. Neither the barracks nor the Hospital at Ross have any connection with Mappilla Agricultural self-supporters and accordingly there is no object in your party visiting them.

I can arrange for you to visit Chatham Mill during working hours. You will be able to speak to a few Mappilla self-supporting workers there. Please let me know whether 12 o'clock would suit you to leave Ross Jetty. Messrs. Abbas Ali and Muga Seth could go from Major Barkets by lorry and return in the launch with you.

My letter referred to in paragraph 10 of my notes.

LETTER FROM MAHMUD SCHAMNAD, M.L.A., KASARAGOD, S. K., TO THE CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, DATED ROSS, THE 7TH DECEMBER 1925.

Would you kindly have the following information supplied to me and oblige—

(*a*) The number of Moplah prisoners brought to the Andamans in 1921, 1922, 1923, 1924 and 1925 respectively.

(*b*) The number of Moplah prisoners who died in the Andamans in 1921, 1922, 1923, 1924 and 1925 respectively.

(*c*) The number of self-supporting Moplah convicts that are now in the several villages of the Andamans respectively.

(*d*) The number of relations and dependents of those prisoners in the several villages respectively.

(*e*) The number of Moplah labouring convicts in the different convict stations respectively.

(*f*) Major Murray's evidence before the Jail Committee.

(*g*) The Andaman and Nicobar Manual and the Andaman administration rules.

The reply referred to in paragraph 10 of my notes.

FROM LIEUT.-COLONEL M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, TO MR. MAHMUD SCHAMNAD. SAHIB BAHADUR, M.L.A., ROSS, No. 3827, DATED PORT BLAIR, THE 8TH DECEMBER 1925.

In reply to your letter of 7th instant, I have the honour to say that the volume containing Major Murray's evidence before the Jails Committee is marked " for official use only " and that I do not accordingly feel myself at liberty to let you see it. In any case the opinions offered by any witness to that Committee relate to conditions which for the most part have undergone a radical change in the past five years.

2. The Andaman and Nicobar Manual has been superseded by the Andaman Administrative Circulars only a few portions of which relate to self-supporters in villages. I or my officers will be glad to supply any information regarding these that you require.

3. The remaining information asked for is supplied to you herewith.

	1922.	1923.	1924.	1925.	Total.
Mapilla convicts brought to the Andamans.	1,277	5	1	19	1,302
Mapilla convicts who died in the Settlement :—					
Labouring convicts	10	29	29	14	
Self-supporters in villages	...	1	2	4	90
Self-supporters elsewhere	...	...	...	1	
Deaths among covict Mappilla population (per mille).	7·82	23·58	25·74	15·44	18·14 (average).
Mapilla convicts released or transferred to Indian jails.	...	...	...	...	79
Mapilla convicts now in the Settlement—					
Labouring convicts	...	...	...	754	
Self-supporters in villages	...	...	...	258	1,133
Self-supporters elsewhere	...	...	...	121	
Number of relatives and dependents of Mapilla self-supporters now in the villages—					
Wives	...	...	...	130	
Children	...	...	...	226	468
Other relatives	...	...	...	112	
Number of dependents of Mappilla self-supporters who have died in the Settlement—					
Males	...	...	2	...	
Females	...	...	2	...	5
Children	...	...	...	1	

Deaths among convict population (other than Mappillas) in the Andamans.

Year.	Per mille.
1922	17·74
1923	29·24
1924	30·92
1925	23·07

My last letter written in compliance with the Chief Commissioner's request to put in writing some of the minor grievances of the convicts.

FROM MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., TO LIEUT.-COLONEL M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER OF ANDAMAN AND NICOBAR ISLANDS, DATED ROSS, THE 9TH DECEMBER 1925.

In accordance with the conversation we had this morning I am writing the following minor grievances of the convicts, that have been represented to me—

(*a*) The convicts have to pay taxes for their huts, cows, goats, and other animals.

(*b*) If any one of them dies, his body is invariably taken to the hospital and subjected to post-mortem.

(*c*) If any self-supporting woman has to deliver, she can do so only in hospital.

(*d*) If one has to go to the next village, he can do so only with a permit from the village headman.

Hoping these grievances will be redressed.

APPENDIX III.

The Government of India's Resolution No. F.-188—24, dated the 4th October 1926.

No. F.-188/24-JAILS.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

JAILS.

Simla, the 4th October 1926.

RESOLUTION.

In paragraph 8 of the Home Department Resolution No. F.-20/26-Jails, dated the 27th February 1926, it was stated that the

report of the four gentlemen who had been granted special facilities to visit the Andamans in December 1925, to see for themselves the conditions in which the Mappilla settlers lived there, would be carefully considered by the Government of India when received. The deputation, consisting of Messrs. Mahmud Schamnad Sahib Bahadur, M.L.A., Syed Murtaza Sahib Bahadur, M.L.A., Mir Abbas Ali Sahib Bahadur, M.A., LL.B., Bar.-at-Law, M.L.C. and Dr. K. D. Mugaseth, L.M.S., sailed from Calcutta for Port Blair on the 1st December and left the Islands on the 9th December 1925, after visiting the various Mappilla villages in the settlement. The deputation was afforded every facility by the local authorities with regard to the Mappilla convicts.

2. The reasons which led the Government of India to sanction the temporary reopening of the penal settlement for Mappilla convicts in modification of their declared policy of closing down the penal settlement as soon as possible, do not appear to be generally known and it would therefore not be amiss to state them here. In 1922 the Government of India permitted, as a special measure, the transfer of Mappilla convicts to the Andamans to relieve the congestion in jails in the Madras Presidency, which were taxed to their utmost capacity by the large number of convictions in the Malabar Rebellion. The local authorities in the Andamans found that the Mappillas made good settlers, and, as the climate of the Andamans was similar to that of Malabar, and the conditions governing the grant of land better than those prevailing in Malabar, the Mappilla convicts were encouraged to remain on in the Islands either as self-supporters or labourers in the Forest Department or on plantations leased to private capitalists. In all cases they were paid a sufficient wage or given enough land to cultivate to enable them to support themselves. They were given rations for themselves and their dependents and were granted loans to purchase cattle and agricultural implements. Mosques were built out of funds provided by the Madras Government and educational facilities were afforded for their children. The Governor General in Council was warmly interested in these proceedings, which offered Mappilla convicts the chance of a free life and re-habilitation in new surroundings in exchange for the confinement and monotony of an Indian jail.

3. In order that these Mappilla settlers should not be denied the amenities of family life and as it is at the same time essential for a settler in the Andamans to have his wife and family with him, Government offered to assist those of the Mappilla convicts who desired to have their wives and families with them, by bringing them from India at Government expense. This endeavour on the part of the Government to contribute to the comfort of the Mappilla settlers was, however, misunderstood and it was falsely represented that the Andamans were a most unhealthy spot and that the families of these convicts were being removed from Malabar in the interest of the Nairs who were anxious to get rid of the Mappillas from Malabar.

4. To remove these and other misconceptions in regard to the Andamans generally the Government of India decided to offer faci-

lities to four non-official gentlemen to visit the Andamans and see for themselves the conditions in which the Mappilla convicts were living there with their families. This offer was not as readily accepted as Government had anticipated. The Hon'ble Sir Alexander Muddiman, Member of the Executive Council of His Excellency the Governor General, therefore decided to take an early opportunity of visiting the Islands himself. In the course of his tour through the settlement in November 1925, the Hon'ble Sir Alexander Muddiman was particularly impressed with the good villages which these Mappilla settlers had built themselves and the general air of contentment and well-being that pervaded them. The appearance of their villages, of their schools and of their fields convinced him that it would be a misfortune to upset so promising an experiment. The only petition which the Hon'ble the Home Member received in the course of his tour asked that more land should be given and that permission should be given to those who had not already done so to import their families.

5. The visit of the Hon'ble Sir Alexander Muddiman facilitated the consideration of certain measures which were under the consideration of the Government of India and have since been given effect to. These measures, which have contributed immensely to the moral and material welfare of the convicts, included the introduction of a liberal system of remissions which gives all convicts (other than professional prisoners, whose cases are under consideration at present) a definite hope of release, the promulgation of the Andaman and Nicobar Islands Land-tenure Regulation, III of 1926, which confers security of tenure on small as well as large holders and enables convicts to acquire occupancy rights on release, and a dredging scheme, sanctioned at a cost of $4\frac{1}{2}$ lakhs, for filling in the swamps round the settlement in which the malaria-carrying mosquitoes breed.

6. In addition to the salutary measures referred to above the Government of India had hoped that the gentlemen to whom they had granted facilities for visiting the Andamans would assist them with helpful suggestions for the welfare of the Mappilla colonists; but they regret to have to record their sense of disappointment.

7. Two reports were presented to Government by the members of the Deputation, one by Dr. Mugaseth, the other by the three remaining members, and these are now published for general information. On the former it is not necessary to comment at length. The report appears to them to be an impartial account of the impressions gained in the course of the Deputation's visit. On occasions it shows evidence of a certain misapprehension of facts, and the Governor General in Council is not able to accept the recommendations in their entirety. His Excellency in Council however regards the minority report as a valuable contribution to the study of the question and takes this opportunity of thanking Dr. Mugaseth for the care and ability which it evidences.

8. The report signed by the majority is unfortunately a document of a different character and is largely vitiated by the in-

accuracy of the premises on which its recommendations are based. It contains much that is of a misleading nature, but the Governor General in Council will confine himself on this occasion to referring to some of the more important points raised.

(*a*) The report asserts that, excepting paddy and an inferior variety of sugar-cane, nothing of any commercial importance grows on the Islands (excluding timber which is a Government monopoly), that the bare necessities of life have to be imported from India and that there are neither openings for nor immediate prospects of indigenous internal trade developing.

These allegations are not borne out by Dr. Mugaseth in his report and are in fact far from justified. The soil and climate are akin to that of Malabar and the same crops can be grown. With a view to raising the standard of agriculture Government have appointed an Agricultural Adviser, and any self-supporter of energy and capacity can become well-to-do.

(*b*) It is next alleged that there are no villages of the type seen in India, that the elements of ordinary village life are absent and that Mappillas, men, women and children looked pale, ill-fed and emaciated.

These statements form a contrast to the report of Dr. Mugaseth and are largely imaginative. In fact the settlers have as a rule built themselves good villages, which are grouped together and complete in themselves, and give the Mappillas every opportunity of living a normal village life under the guidance of headmen of their own race and choice.

The suggestion that the period of residence in the Andamans had told adversely on the colonists' health is directly contrary to the facts. When the Mappilla settlers began to arrive most were men of poor physique and in an indifferent state both of mind and body. Their physical condition was overhauled on arrival, their latent malaria was treated, they were freed from hook worm, which most of them harboured. Regular work, generous diet and daily bathing led to a general improvement of health. In view of the statements in the majority report the men of the Mappilla villages were again weighed. In one village there was no increase or loss of weight. In all the remaining 7 villages there was an average increase of weight varying from one to over six pounds.

This is a fact that cannot be reconciled with the sweeping statements in the report as to general ill-health and emaciation.

(*c*) It is stated that the women complained that they had been lured to enter the Islands by false promises, that the rations given were neither liberal nor good and that the women were driven to supplement their needs by selling their rations and seeking employment in distant villages.

These are seriously incorrect statements. The facts are that some of the wives of convicts refused to come without their mothers and other relatives and the Chief Commissioner granted permission expressly for them to come to the Andamans. Up till December,

1925, when cash allowances were substituted, rations, including both fish and meat, were granted on a liberal scale, not only to the convicts but also to their dependents, and the administration definitely accepts responsibility for feeding both convicts and their dependents who are unable to support themselves. If rations were sold (Government had previously no knowledge of this practice) the fact itself suggests that they were granted on a liberal scale. The women have enough employment in their own homes and on their husband's holdings and have no necessity to go out in search of employment.

(*d*) The report severely condemns the sanitary conditions and the medical arrangements for the sick.

In fact well equipped medical facilities are available within a few miles of every village, while motor lorries are constantly running between villages with orders to remove the sick promptly to the nearest hospital. The facilities are thus probably better in the Andamans than in a large number of villages in Malabar. In addition to this, every village Chaudhri has quinine and purgative mixtures for use in emergencies. The villages are frequently visited not only by the Medical Officer but also by the District Officers. It is stated that the Mappilla villages are miserable hovels, but Dr. Mugaseth says " Their huts made of bamboo and thatched with palm-leaves compare very favourably with the huts (Chettapuras) we find about Kundungal and Valayil in Calicut ". The Medical Officer, who has himself taken shelter in these huts during the rains, reports that they are warm and dry. The floors inside are raised two feet above the outside level and are made of stone and clay well rammed down with walls of about 3 feet of mud. Malaria is now on the decrease, and the Chief Commissioner is taking steps to have proper wells sunk so as to increase the supply of pure water.

(*e*) The paragraph headed ' Taxation ' includes a singular number of misstatements which a reference to the local authorities would quickly have corrected. The taxes payable by Mappilla convicts are enumerated; but collection is remitted when it is likely to cause hardship and actually, up to date, no Mappilla has paid one pie in taxation. The cost of thatching leaves is (incorectly) stated; but the authors of the report had apparently not ascertained that the Mappillas are able to cut as many as they require for themselves with no cost and even to sell the surplus. The authorities show every consideration in recouping taccavi loans. Postponements are freely allowed, and it is significant that one Mappilla only has so far paid an instalment. The statement that when a bullock dies no further loan is given is inaccurate. When in 1925 cattle disease broke out the value of the deceased animals was written off and fresh loans granted, so that no man's indebtedness was increased and no man was left without the means to plough his field.

No less misleading is the statement that convicts in the Andamans are denied the remissions granted in Indian jails. Under

existing rules about 60 per cent. of the Mappillas will be free men in 7 years and most of the remainder in 14 years.

(*f*) The statements in the report as to moral conditions are so grossly exaggerated that they defeat their object. It has always been recognised that a disproportion in numbers between men and women tends to immorality; but the figures quoted by the authors of the report relate to convict men and women only, and the disproportion is much less among the Mappilla settlers. When the Hon'ble Home Member visited the Islands last November he found the male population of the Mappilla villages to be 284. 45 of these were unmarried. Of the 239 married men 92 had wives in Malabar. The remaining 147 had their wives living with them as well as families totalling 259 children and 56 other relations. Provided no obstacle is placed in the way of Mappilla women now in Malabar joining their husbands what disproportion there is will quickly diminish and disappear.

(*g*) The Government of India have carefully considered the statements as to a universally expressed desire among the Mappillas to return to jails in India and to send their wives back to their native districts. As has been seen no such request was made to the Hon'ble Home Member, who visited the villages a few weeks before the arrival of the Deputation, and within a week of Deputation's departure forcible protests were made to the local authorities against the idea of separation from their families and return to jail. An enquiry was made in April as to the wishes of the men concerned. Of 135 men whose families were with them in the Islands 13 men wished to send back to India 10 mothers, 2 wives, 4 children and 4 other relations. Of 110 men whose families are in Malabar all asked to have their wives and the majority their entire families. Applications are pending from four parties of labouring convicts, 20 to 25 men in each, asking permission to found new villages and settle with their families.

These facts do not suggest that the Mappillas as a whole desire to return to jail. Statements appear to have been made to the Deputation which did not accord with the views expressed by the men concerned before and since, and it seems probable that the activities of the Deputation appeared to them to offer the hope of absolute release and return to their homes as free men. When it became clear that the alternative to life as a settler in the Andamans was separation from wife and family and life in an Indian jail the great majority realised that the Andamans provided more attractions.

The Governor General in Council has, however, no wish to detain any of these men in the Andamans against his will, and, as will be seen below, has decided to place the colonisation scheme in the future on a purely voluntary basis.

9. Much else has been said in the report to which objection might properly be taken, and there are many further allegations which it would be easy to refute. But the Government of India consider that enough has been said to show that the reckless state-

ments with which it abounds indicate a neglect on the part of its authors to ascertain the true facts of the case. The Government of India therefore regret that they are not able to attach as much importance to its conclusions as would otherwise be the case. Nevertheless the whole position has been re-examined and any suggestion in the report that appears calculated to improve in any way the settlers' chances of independence and a self-respecting life will be carefully considered; but the Governor General in Council remains convinced that the Colonisation Scheme is the most humane solution of the problem how to deal with those who, at a time of fanatical excitement, were led into committing serious crimes against the State by the inflammatory utterances of political leaders. His Excellency in Council cannot allow political considerations again to intervene to their disadvantage and bring about their relapse to the position of ordinary convicted criminals.

10. Recognising, however, that public opinion may for a time be mislead and perhaps agitated by the unfounded charges levelled against the administration, the Governor General in Council has decided to define his future policy in such a way as to show once and for all that Government have throughout had no other consideration in mind than the interests of the convicts themselves. For the future His Excellency in Council has resolved that the Mappilla Colonisation Scheme shall be regulated by the following principles:—

(*i*) The Mappilla colonisation scheme will continue on its present lines, but on a voluntary basis;

(*ii*) Any of the present Mappilla settlers in the Andamans who wish to return to jails in India and to send their wives and families back to Malabar will be allowed to do so;

(*iii*) Long term Mappilla prisoners now in jails in India will be given the option between remaining in jails and taking up the freer life of a settler in the Andamans. Prisoners who may volunteer hereafter to go to the Andamans will also have the option, after they have been in the Islands for one year, of returning to jails in India and sending their wives and families back to Malabar;

(*iv*) Where Mappilla convicts have chosen life in the Andamans and wish to have their wives and families with them, Government will arrange to convey their wives and near relations to the Islands. Able-bodied relations will be required to earn their own living after the first month.

ORDER.—Ordered that the resolution be published in the *Gazette of India* and that a copy be forwarded to the Government of Madras and the Chief Commissioner, Andaman and Nicobar Islands for information.

H. G. HAIG,
Secretary to the Government of India.

THE EXISTING CONSTITUTION OF THE PROVINCE OF COORG AND ITS OPERATION.

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The Existing Constitution of the Province of Coorg and its Operation.

Descriptive.

1. The province of Coorg which covers an area of 1,582 sq. miles and contains a population of 163,838, is roughly commensurate with a sub-collectorate of the adjoining province of Madras. The Coorgs or Kodagus, from time immemorial the lords of the soil, number about 44,000. They form the largest compact unit and are strikingly Rajput in characteristics. They have their own language, their own religion, their own national dress and their own system of land tenure.

The province was annexed on the 7th of May, 1834. The proclamation then issued by Lord William Bentinck runs as follows:—

"Whereas it is the unanimous wish of the inhabitants of Coorg to be taken under the protection of the British Government, His Excellency the Right Honourable the Governor General has been pleased to resolve that the territory heretofore governed by Virarajendra Woodyar shall be transferred to the Honourable Company.

The inhabitants are hereby assured that they shall not again be subjected to native rule; that their civil rights and religious usages will be respected; and that the greatest desire will invari-

ably be shown by the British Government to augment their security, comfort and happiness ".

The country was then constituted into a separate province under the direct control of the Government of India. An officer with the title of Superintendent of Coorg was appointed as chief local authority and was invested with criminal, civil and revenue powers, the duty of supervising his administration being assigned to the Commissioner governing the adjoining country of Mysore. This arrangement continued until the Mysore State was made over to the Maharaja in the year 1881, when the newly appointed " Resident in Mysore " was entrusted with the duties previously discharged by the " Commissioner for the affairs of Mysore and Coorg ", his official style being changed to " Chief Commissioner of Coorg ". The title of Superintendent was at the same time alter to Commissioner. Since 1881 there has been no radical change in the main outlines of the administration except in 1924 when a Legislative Council was granted to the province.

The province is under the control of the Chief Commissioner, in direct subordination to the Government of India. In his person are combined the provincial functions discharged in other provinces of India by the local Government and the High Court. As Chief Commissioner he is the controlling revenue authority, the Inspector General of Police and Prisons, and the supreme local head of the Public Works, Educational, Medical, Registration and other miscellaneous departments, while as Judicial Commissioner he is the highest civil and criminal court in the province. He is assisted in his work by a secretarial establishment located in Bangalore and controlled by the Secretary to the Resident, who, in that capacity, bears the style of " Secretary to the Chief Commissioner of Coorg ". In the province itself the chief local authority is the Commissioner, whose headquarters are Mercara, and whose duties extend, practically to every branch of the Administration.

The superior officers employed in the province are generally taken from the Madras cadres, while the province has its own cadres of provincial and subordinate services. The Accountant General, Madras, is the account and audit officer for the province of Coorg.

Local self-government has not progressed far in the province nor is there any real demand for its extension. There is a single district board for the whole province outside the Municipal areas.

It is presided over by the Commissioner and was originally constituted by nomination. But in 1926, that is to say, two years after the Legislative Council had been set up, the elective principle was introduced. The district board now consists of 13 elected members, 5 *ex-officio* Government members and 2 members nominated by the Chief Commissioner to represent minorities and backward classes. The elected members are returned from electoral areas which are sub-divisions of the electoral areas for the Legislative Council forming single-member constituencies. The franchise for the district board is, save in one insignificant particular,

identical with the franchise for the Legislative Council; but the constituencies are not arranged separately according to *jama* and *non-jama* tenures as in the case of the Legislative Council constituencies. *Jama* and *non-jama* holders vote in the same constituencies. There is an elected Vice-President. The annual income is approximately Rs. 1,40,000.

Only the towns of Mercara and Virajpet are large enough to warrant the grant of municipal powers. These two municipalities have elected non-official Presidents and Vice-Presidents. The Mercara municipality consists of 16 members, of whom 12 are elected non-officials and 4 are officers of Government sitting *ex-officio*. The Virajpet Municipality consists of 14 members, of whom 10 are elected non-officials and 4 are officials. The former municipality controls an income of approximately Rs. 24,000 and the latter Rs. 15,000.

The demand of 1917 and the decision of the authors of the Report on Indian Constitutional Reforms.

2. The people of Coorg are educationally well advanced and have seldom in recent years been free from political aspirations. These aspirations found expression for the first time in an address* which was presented to His Excellency the Viceroy and the Secretary of State for India in 1917 by the Coorg Landholders' Association, on behalf of all the inhabitants of the Province.

In that address they asked that such reforms as were introduced elsewhere should be extended to Coorg. The feeling at that time was against amalgamation with Madras and the recommendations made in their address, in addition to various changes in the internal administration of the province, included the constitution of a representative assembly of 30 under the Chief Commissioner and an Advisory Council of 15 elected by the Assembly. That suggestion did not commend itself to the authors of the Report on Indian Constitutional Reforms, for in paragraph 198 of their Report they treated Coorg as one of those areas where the principle of responsibility cannot yet be applied. They laid on the Government of India, however, the task of considering whether it would be well to associate with the personal administration of the Chief Commissioner some form of Advisory Council adjusted in composition and functions to local conditions.

Discussions after the publication of the Report on Indian Constitutional Reforms.

3. The very limited proposals of the Joint Authors for constitutional advance in Coorg naturally caused some disappointment to the people of the province. Amalgamation with Madras which had in the past been frequently represented as fraught with grave danger to ther nationality was proclaimed as preferable to the exiguous measure of reforms adumbrated in the Report. At a conference of officials and non-officials, representing various communities and interests, held in February 1919, a demand was put forward for a provincial council of 30 members. The council was to have the power of discussing all legislative projects affecting the province, Imperial or local, of asking questions, of passing

* Page 57 of the Volume containing Addresses presented in India to His Excellency the Viceroy and the Right Honourable the Secretary of State for India—Cmd. 9178 of 1918.

resolutions on matters of provincial interest and of discussing the budget. It was recommended that the Council should be created under section 3* of the Government of India Act, 1912, in order that legislation on local matters might be passed by the Council subject to the veto of the Chief Commissioner and the Governor-General in Council. It was further recommended that if a division of subjects was introduced on the lines of dyarchy, resolutions on the budget demands for transferred subjects should be binding. The treatment of this demand and of the recommendation of the Joint Authors was mixed up with discussion of the arrangements suitable for other centrally administered areas. But eventually the conclusion was reached that the introduction of the dualised system of government adopted in the case of the larger provinces would be entirely unsuitable to the circumstances of Coorg, besides imposing an intolerable burden on provincial finances. At a later stage the further conclusion was reached that the power of voting the budget and the direct association of the people with the administration would necessarily involve the elevation of Coorg into a Governor's province. To this it was impossible for the Government of India to agree. The problem, therefore, resolved itself into a choice between two alternatives—either a purely advisory Council might be established all the members of which would be nominated by the Chief Commissioner though a proportion might be nominated on the recommendation of bodies such as municipalities and the district board, or under section 77 (2) of the Government of India Act a small Legislative Council with a substantial non-official majority might be created. The Government of India recognized that the first alternative would be entirely unacceptable to the people themselves who would regard the type of Council proposed as a mere shadow of a representative assembly unworthy of their educational and political advancement. The people of Coorg were aware of the nature of the proposals which the Government of India had under consideration. Opinion was not only divided but was vacillating for there was always the possibility of securing a degree of responsible government by amalgamation with Madras. The course then which was obviously open to the Government of India was to put to the people of Coorg the two practical alternatives of a Council under section 77 (2) of the Act or amalgamation with Madras. Fortunately the vacillation of the Coorgs came to an end and a fully representative meeting of Coorgs, both of moderate and of advanced views, unanimously decided to accept the type of Council suggested by the Government of India.

The Existing Constitution.

4. The primary intention of the reforms granted to Coorg was to set up there a Legislative Council of the nature of the Legislative Councils of Lieutenant Governors. This was done by notifications issued on the 30th October 1923 and, in pursuance of further notifications, the Legislative Council of Coorg was duly inaugurated on the 28th January 1924. But the step of setting

*Corresponding to section 77 (2) of the Government of India Act, 1915.

up a Legislative Council was found to involve consequences which affected not only the legislative but the administrative arrangements of the province. It was necessary to classify subjects, in relation to the functions of Government, as central and provincial subjects, and, seeing that the legislative council was to be concerned with the budget, a separation of provincial from central revenues and an allocation of revenues to the local Government were also inevitable.

Accordingly, Devolution Rules were framed, the bulk of which took effect from the 28th January 1924, but those which referred to allocation of revenues to the local Government were given effect from the 1st of April 1924. The existing constitution of Coorg is, therefore, described in a series of notifications of 1923 and 1924 which form an Appendix to this memorandum. And the expenditure powers of the Chief Commissioner have been defined in the rules made by the Secretary of State in Council under the proviso to section 21 of the Government of India Act which are also included in the Appendix.

For the purpose of defining the provincial sphere of administration and of legislation (subject to section 80-A of the Government of India Act) the most important rules are the Devolution Rules. These rules do not contain any explicit devolution of authority in respect of provincial subjects to the local Government as in rule 13 of the Devolution Rules applicable to Governors' Provinces. But it has been held that such devolution is implicit in the rules, and in practice the constitution has operated as if there were explicit devolution. The local Government has, therefore, been given powers of its own, but since there has been no transfer from among provincial subjects of subjects to the administration of a locally responsible executive, the local Government in all its functions is subject to the unrestricted superintendence, direction and control of the Central Government: It was a consequence of the devolution of authority to the Chief Commissioner that his expenditure powers should be somewhat wider than those of local Governments in centrally administered areas. Accordingly, he has been given powers in respect of expenditure which are less than those conceded in Governors' Provinces but more than those of minor local Governments. The classification of subjects as central and provincial follows closely the classification adopted in major provinces. But the financial powers of the local Government are subject to restriction. Taxation bills, like all other bills, require the previous sanction of the Governor-General in Council and a similar sanction is required in the case of proposed borrowing. The local Government (Borrowing) Rules have not been applied to Coorg. The allocation of revenues to the local Government was based generally on the assumption that receipts accruing in respect of provincial subjects and other allocated sources of provincial revenue would normally suffice to meet provincial expenditure. The province was, therefore, given no opening balance and the arrangements do not include any grant or subvention from central revenues.

Central subjects in Coorg are administered by the local Government as the agent of the Governor-General in Council.

The Coorg Legislative Council consists of 15 elected members and 5 other members nominated by the Chief Commissioner of whom 4 are officials and one is a non-official representing depressed classes. Of the 15 elected members 2 represent the European community, 9 the *Jama* tenure holders [defined in Coorg Electoral Rules, Schedule II, paragraph 1 (3)] and 4 the *non-jama* tenure holders. The franchise qualifications are based, as in major provinces, on the tenure of land, on assessment to income-tax, on military service and on payment of certain municipal tax. The constituencies are territorial and residence in a constituency is a necessary qualification of an elector.

The European constituency extends to the whole province and returns two members. The other constituencies are arranged by dividing the area of the province into four areas for each of which there is a *jama* constituency and a *non-jama* constituency. The *non-jama* constituencies are single-member constituencies but two of the *jama* constituencies return 3 members and one *jama* constituency returns two members. These four electoral areas do not cut across the electoral areas for the constitution of the district board but represent a grouping of these smaller areas.

Members of the Council hold office for three years from the date of taking a seat. *There is no provision for the term of life of the Council or for its dissolution. The effect is that in course of time the Council will be constituted by a series of bye-elections. The quorum for the transaction of business is eight. The Chief Commissioner is *ex-officio* President of the Council.

The functions of the Legislative Council fall into three divisions, (*a*)legislative ,(*b*) deliberative and (*c*) interrogatory.

One source of provincial legislation is the powers given by the Scheduled Districts Act, XIV of 1874, which was declared to be in force in Coorg by a notification, dated the 22nd February 1875. Section 3 of this Act, as amended by the Devolution Act, XXXVIII of 1920, empowered the local Government to declare authoritatively which general Acts and Regulations are or are not in force in Coorg, and section 5 enables the same authority to extend to Coorg, which suitable modifications, any enactment which is in force in any other part of British India. Powers of control vested in and exercised by the Governor-General in Council in virtue of certain enactments have been relaxed and transferred to the local Government by the Devolution Act referred to above. Another source of legislation is the powers given by section 71 of the Govenrment of India Act which applies to Coorg.

These powers remain unaffected by the establishment of a Legislative Council which has been empowered to make laws for

*This follows the distinction between Governors' Legislative Councils and Legislative Councils of Chief Commissioners made in sections 72-B. and 78 (1) of the Government of India Act.

the peace and good Government of the province, subject to the restrictions (*a*) that the previous sanction of the Governor-General is required to all legislation and (*b*) that all bills passed by the Council are reserved for the consideration of the Governor-General.

The Deliberative powers of the Council are (1) discussion of the annual financial statement and (2) discussion of matters of general public interest. The rules defining them are substantially transcripts of the rules in force in pre-reform Councils. The rules for the discussion of the annual financial statement distinguish between the financial statement and the budget. The first means the preliminary financial proposals of the local Government for the financial year next following. The second means the financial statement as revised by the local Government after the proposals of the Finance Committee have been considered. On a day not later than the 5th day of January in each year a Finance Committee of the Legislative Council is constituted for the purpose of discussing the draft financial statement and making proposals with reference thereto for the consideration of the local Government. The Committee consists of a Chairman and such other members not exceeding five as the Chief Commissioner may direct, of whom not more than half are nominated by the Chief Commissioner and the remaining members are elected by the non-official mmebers of the Council. The Chief Commissioner of Coorg who is the " Finance member " for the purpose of those rules is the Chairman of the Committee. The draft financial statement is referred to the Committee on a day not later than the 18th day of January in each year. It contains statements showing—

(*a*) the opening balance of the provincial account;

(*b*) the estimated provincial revenue;

(*c*) the estimated provincial expenditure;

(*d*) the amounts available for maximum recurring expenditure and for total expenditure upon other new schemes;

(*e*) the estimated closing balance which should not be less than Rs. 50,000.

The draft is accompanied with an explanatory memorandum. The financial statement is then discussed by the Committee whose proceedings are private and informal. The Committee submit to the local Government their report indicating the changes which it recommends by the 28th day of January. After considering the proposals of the Committee the local Government embodies its own conclusions in the financial statement. The budget is not formally presented to the Council but copies are supplied to all members. It comprises a memorandum by the Finance Member explaining the general financial situation of the province in the current and ensuing years together with a memorandum explaining the estimates of revenue and expenditure. The first stage of discussion takes place on a subsequent day after the copies of the budget are supplied to members. At this stage the discussion of the budget is general and no member is permitted to

move any resolution nor is any question submitted to the vote of the Council. On the day following that on which the the general discussion has been held the heads or groups of heads in the budget are considered separately. The members are then at liberty to move resolutions, subjects to certain restrictions resembling those in force in Governors' provinces. The subjects specifically excluded from discussion are those referred to in sub-section (3) of section 72-D of the Government of India Act and in rule 23 of the Rules of Business for provincial legislative councils. The Council can divide on these resolutions. Every resolution, if carried, has effect only as a recommendation to the Chief Commissioner. The discussion of the budget is closed by the middle of March. A printed copy of the budget as finally passed by the local Government is communicated to each member of Council with a note describing the changes that have been made in the figures originally supplied to the Council and explaining why any resolutions passed by the Council have not been accepted. A copy of the budget as finally passed is also submitted to the Governor-General in Council for information.

Discussions on matters of general public interest must be raised by resolution and take place after all the other business of the day has been concluded. The general rules regulating the form of the resolutions and the discussions upon them, are, in the main, the same as those for the discussion of resolutions on the financial statement, the chief difference being that the range of discussions is wider and that amendments are allowed. The subjects specifically excluded from discussion are those mentioned above in connection with the financial statement. The President has the same discretionary power of disallowing resolutions as he has in the case of resolutions on the financial statements.

The Council has the right to ask questions under conditions and restrictions. Any member who has asked a question may put a question " for the purpose of further elucidating any matter of fact regarding which an answer has been given ". But the President may disallow a supplementary question if, in his opinion, it infringes the rules as to the subject matter of questions and the member to whom it is addressed may decline to answer it without notice.

The Operation of the Constitution.

5. The new constitution has resulted in the enfranchisement of $6\frac{1}{2}$ per cent. of the total population, the voters now on the rolls numbering 10,563. The census of 1921 showed the male population of the province over the age of 25 as 43,240 persons. The number of literate males over the age of 20 was 13,360. For the present purpose some deduction must be made from these figures to allow for the large fluctuating population which comes and goes in connection with the planting industry. It seems a probable conclusion that the franchise is more extended than is usual in India as a whole and has reached some approximation to a measure of political capacity in the province. The elections which took place in 1924 and in 1927 were freely contested. On the first occasion only the European constituency was uncontested and

30 candidates stood for the remaining 13 seats. On the second occasion there was no contest in the European constituency and in one *jama* and two *non-jama* constituencies. Twenty-three candidates stood for election. It is probable that the appeal of candidates to the electorate was purely personal. At all events the interest shown in the elections was high. In 1924, 7,821 votes or 74 per cent. of the total registered voters went to the poll. The corresponding figures in 1927 were 6,699 and 75.

The elected members, with one or two exceptions, it is said, are not drawn from the best classes in Coorg. The old type of conservative Coorg with considerable vested interests in the land, the type that takes the lead in the village life of the province and may be compared to the landed gentry in England, will not come forward for election. Persons of this class consider it beneath their dignity to enter the hurly burly of an election opposed by men of mediocre standing employing dubious political tactics, and they will not take the risk of being defeated by such men at the polls. The composition of the two Councils was as follows:—

	1924.	1927.
European planters	2	2
Landholders	6	6
Coffee planters	4	2
Legal practitioners	2	4
Journalists	1	1

The Council sits for very short periods in autumn and spring. The detail of the sessions which have been held is as follows:—

Number of Sessions.	No. of days.
1. January, 1924	1 day.
2. March, 1924	3 days.
3. September, 1924	3 days.
4. March, 1925	3 days.
5. October, 1925	1 day.
6. January, 1926	1 day.
7. March, 1926	4 days.
8. November, 1926	3 days.
9. March, 1927	2 days.
10. October, 1927	2 days.
	23 days.

The attendance of members has always been very high, and in the September session of 1924 and the March session of 1925 there were no absentees at all.

As was anticipated from the constitution framed, the Council has been very little engaged in legislation. There has been no non-official legislation and official legislation has been confined to the Village Panchayat Bill and the Coorg Labour Bill which were both important measures. Since the Council was constituted no use has been made by the Chief Commissioner of his powers under the Scheduled Districts Act or by the Governor-General in Council of his powers under section 71 of the Government of India Act.

The most important business in the March sessions has been the discussion of the budget. At other times the Council has been occupied with resolutions and interpellations. Up to the end of 1926, 474 questions were asked and during 1927, 117 questions were put. Interpellation on the whole has been employed with an earnest desire to elicit information of real public value. Resolutions numbered 155. There have been no official resolutions. Resolutions brought forward may be divided into four classes:—

1. Resolutions framed in respect of the Medical, Education and Public Works Departments with a genuine regard for the public benefit although evincing scant knowledge or understanding of Finance or the Financial situation.
2. Resolutions framed on communal or sectional lines, *e.g.*, for the benefit of the *jama* Coorg—showing little or no regard for other sections of the community.
3. Resolutions framed on personal lines, *e.g.*, attempts to discredit subordinate officers, or to obtain scholarships for relatives of the mover.
4. Resolutions of a somewhat illusory nature, *e.g.*, demands for seats in the Central Legislature in addition to the Council, or for raising the status of Coorg to that of a Governor's Province.

The Council passed 58 resolutions. Full effect was given to 20 of these on subjects such as the appointment of an Assistant Surgeon for the Virajpet Hospital; the Harangi Project; repairs to the Chikkalehole channel; closing of paisari lands against grazing; government posts for depressed classes; industrial school at Virajpet; opening of a road into the Marenad; appointment of a Committee to enquire into the deterioration of cattle, etc., committee to enquire into the wide spread of malaria; grant of gun licences, etc., village Panchayat system; enhancing the Commissioner's discretionary powers; repairs to the tramway at Makut; uprooting of sandal trees; supplementary questions; legislation regarding labour; and amendment of the local Fund and Municipal regulations.

Partial effect was given to 13. No effect could be given to resolutions passed on such subjects as the appointment of a Committee to revise the Coorg Revenue Manual, the Rules under the Indian Fisheries Act, the grant of free grazing in reserved forests, the construction of a bridge across the Cauvery at Betheri, change of the assessment of *jama* holdings made at the last settlement, and the exemption of *jama* ryots from restriction on the carrying of revolvers within British India.

The discussions of the draft budget by the Finance Committee have divulged a sense of responsibility and sound judgment. Indeed, at least on one occasion the local Government accepted *in toto* the Committee's recommendations. Most of the recommendations have been marked by good sense, but in the existing

financial situation of the province the Committee has little scope for putting forward any far-reaching or important proposals. The detailed discussion of the budget in the legislative council gave rise to 98 budget motions. Of these 53 were withdrawn, 16 were not moved, and 14 were rejected. The remaining 15 were carried by the Council and 4 were wholly or partially accepted by the local Government. These budget motions proposed not only the reduction but also on occasion the enhancement of expenditure proposed by the Chief Commissioner. The budget heads which seem to have received most attention are those connected with Forest and Education, and on three occasions resolutions for increased expenditure on the latter head have been carried. In 1927 resolutions to increase medical expenditure were carried. There is no statutory provision for the examination by the Council of the appropriation of provision made in the annual budget. But since 1927 a small informal committee has been constituted to examine the Audit and Appropriation Accounts of the Province. It includes members of Council but it reports not to the Council but to the Chief Commissioner.

On the whole the Legislative Council has established a growing influence over the executive. Generally speaking, the standard of debate has been satisfactory and at times has risen to a high level, and members have been eager to preserve deportment and decorum in the conduct of debates. The presence of the Chief Commissioner as President must necessarily have a sobering effect. The unimportance of legislation and the restricted range of subjects to which the legislature of so small a province can devote its attention have resulted in the boundary line between the respective spheres of the executive and the council becoming obscured to some extent. The 15 elected members in this small area are brought into contact with the administration at every point throughout the province and the distinction between the legislative council and executive bodies such as a municipal committee has sometimes been forgotton by members.

The equity of the financial settlement which was made with the province when the Devolution Rules were framed is a subject on which the executive and the legislature are at one in their claims upon the Central Government. The financial position of the Province has, since the provincialization of Coorg Revenues, been somewhat precarious. The revenue and expenditure figures for the last five years are as follows:—

Year.	Revenue.	Expenditure.	Surplus or deficit. + or —.
	Rs.	Rs.	Rs.
1924-25 . . .	15,04,488	13,06,335	+1,98,153
1925-26 . . .	13,84,541	12,80,546	+1,03,995
1926-27 . . .	13,08,328	12,85,944	+22,384
*1927-28 . . .	13,40,000	13,05,000	+ 35,000
†1928-29 . . .	13,46,000	14,19,000	− 73,000

* Revised estimate.
† Budget.

The annual budget is balanced with difficulty and little or no money is available for new and urgently required works such as anti-malaria measures, communications, hospitals and the like. The heavy demands made on the province in respect of leave and pension contributions of officers whose services have been lent to the province in the past have proved an unexpected drain on its slender resources. The Government of India has been unable to relieve the province of this liability in view of the undesirability of relaxing the Audit Rules in favour of any particular province. But an attempt has been made by the province to improve its financial position by obtaining from the Government of India a large opening balance on the ground that forest revenues, which are the sheet-anchor of provincial finance, are suffering from the excessive exploitation of the sandalwood forests by the Government of India while Coorg was still centrally administered. This claim is still under consideration.

The Future—Demands and Aims.

6. It is possible that in Coorg there is not only a divergence of the views of different classes but also some vacillation of aim in each class. A section of opinion seems to be influenced mainly by sympathy with the aspirations and political theories of advanced opinion in India generally and in Madras in particular. Others pay regard more to the past history and the present social and economic conditions of the province. For all sections it is a practical problem whether provincial desires can best be fulfilled by development of provincial institutions or by increased participation in central institutions or by association with the more advanced arrangements which have been or may be introduced in the adjoining Presidency of Madras. The demands which have so far been made or expressed cannot be regarded as conclusive evidence of a considered and consistent policy.

On the 26th September 1924, a resolution was passed unanimously in the Council recommending that the province should be given adequate representation in the Indian Legislative Assembly and in the Council of State. In sending up the resolution for the orders of the Government of India, the Chief Commissioner expressed his sympathy with the claim made by the Coorgs and in a subsequent letter he suggested that a possible solution might be to include Coorg for the purposes of representation in the Assembly in an adjacent constituency of Madras. To this the Government of India were unable to agree, and they drew attention to the fact that Baluchistan has no representative in the Legislative Assembly, while Ajmer-Merwara, which has a representative, has no Legislative Council: Coorg could not have both.

On the 16th March 1925, a resolution was moved in the Council that Coorg should be constituted a Governor's province. The representative of the Coorg Government in the Council expressed the view that the resolution was premature. Nine members voted for the resolution, and no other member voted either for or against. The Government of India declined to accept the resolution.

On the 6th May 1928, the Coorg Zamindars Association, under the presidency of a Madras politician, adopted resolutions demanding a constitution introducing full responsible government based on adult suffrage with representation in the Central Legislature. But it was also demanded, first, that as a temporary measure all judicial powers and all other administrative powers in respect of courts in Coorg, other than the recruitment of the judicial services of the province, should be vested in the High Court at Madras, and, second, that Coorg should be unified with Karnataka as an autonomous linguistic province. The latest Congress resolutions contemplate an autonomous province of Coorg on the model of Governor's provinces, and the same conclusion has been reached, without discussion of local conditions, by the All-Parties Conference.

On the other hand there appears to be a body of local opinion which is concerned more with the experience gained under the present constitution and which has more regard to the peculiar circumstances of the province. It is argued that divisions and dissensions caused by the Council have been felt in every Coorg valley. Jealousy amongst Coorg families has always existed, but at no period in its history have the Coorgs been so divided amongst themselves as at the present time. With the majority of families Government service has been a tradition since the time of the Rajas. Criticism by those whom the old Coorgs consider as upstarts in Council has led to bitter feeling. Any advance towards popular Government, for example control by ministers, would enhance this feeling. In fact it would not be possible in Coorg to find a minister able to command general confidence. In Coorg, politics cannot be divorced from the lower paid revenue official inspecting a field, or a police constable visiting a village on patrol. This unhealthy atmosphere would be intensified by wider popular control. There can be no field, for instance, in which a minister could operate without encroaching on the proper duties of a stipendiary official. Any change in Coorg which brought non-officials more prominently into the executive field would result in the collapse of the executive services. The best families of Coorg have their ancestral lands to support them and would decline to enter Government service.

The same critics maintain that any constitutional advance on popular lines must necessarily entail increased expenditure although the present financial situation obviously does not admit of any such increase. On this subject the view of the Council is that lower-paid officials should be employed. But it is contended that any advance towards a more popularized or elaborate form of administration or Council would entail the enlistment of more senior officers and consequently increased expenditure. Again, Coorg, at present, is cut off from the services of expert officers who are essential for advance in those departments in which the politician chiefly calls for progress. When Coorg is in need of the temporary or part-time advice of agricultural, veterinary, excise, forest, malarial or other officers of specialized training, recourse

has to be had to Madras to attain such services. Coorg has been seriously hampered in the past by this disability and the disability will be accentuated as time goes on. If, therefore, constitutional advance is to mean progress in transferred subjects the machinery to give effect to this policy will involve considerable further outlay.

This argument is directed alike against a system of representative government and a system of responsible government, and there are many Coorgs of the old family who would prefer to return to the old order of things, for they regard the Council as a useless incubus costing money which might well be expended elsewhere.

But there are other considerations which point in the direction of amalgamation with Madras. For many years to come Coorg must draw the officers of its administration including to a large extent provincial officers from Madras. For the higher education of their children the people of the province must look outside Coorg and there is a widespread demand that Coorg should be brought within the jurisdiction of the Madras High Court. A very general and substantial complaint is that there is no field for young Coorgs in Coorg itself, and that they have to look further afield in search of a career. But the whole tendency of popular administration in provinces is to reserve provincial employment for provincial citizens. Finally, the present provincial isolation can be maintained only if financial support is forthcoming from outside.

7. It is possible that the situation has been to some extent complicated by the recent introduction of the elective principle into the district board. The operation of the present constitution has made it clear that legislative functions are a very inconsiderable portion of the activities of the Legislative Council and that the practice of administration is so much the interest of the members of the Legislative Council that the distinction between it and bodies such as district boards and municipalities in practice tends to be overlooked. The position, then, is that for the same small area the same electorate, through constituencies not widely dissimilar, return the predominant element in two Assemblies, of the same strength and interested in matters of the same nature. It may be argued that the existence of a Legislative Council in so minute a province is an anomaly, and the anomaly is only emphasized by the existence of a similar Assembly in the same area. The Future—General.

In this confusion of issues, not only the terms of the proclamation of the annexation of Coorg in 1834 but also all dictates of political wisdom make it essential to ascertain precisely what the real views of the people regarding the present constitution and their wishes for the future are. The Coorgs who are the dominant race themselves undoubtedly visualized a Council composed of elders imbued with the conservative, tradition of their race, and imagined that in fact the Council would be to some degree a return to the condition of things prior to the Rajas, when Coorg was governed by a small elected body of elders with plenary powers

controlling similar bodies in the " Nads " or Tehsils and in the villages. Their hopes in this respect have not materialised, and they are, it is believed, in the majority sadly disillusioned. The Council returned at the first elections was dominated by Brahmin lawyers aping the methods of the Swarajists, and by their following of several unbalanced young Coorgs. The second elections went further in creating in conservative minds a profound distaste for the Council. It may, therefore, be that the present form of Council Government is unpopular with the majority of the people, and the more numerous opinion might prefer a reversion to government by the Chief Commissioner coupled with a council composed of leading and respectable men serving the purpose of an advisory body.

The alternatives which have at present appeared are:—

(1) A reversion to the order of things prior to the constitution of the Council,

(2) A re-arrangement of the functions of the Legislative Council and the District Board and possibly their amalgamation,

(3) A more advanced and popularly constituted form of constitution,

(4) Amalgamation with Madras.

To most of these there are obvious objections. To the last three would be the sentimental objection that the history of the race is one of complete independence and sustained and successful efforts to resist invasion. The Coorgs themselves wish for isolation and would undoubtedly be reluctant to agree to such a step as amalgamation. But it is possible that sane local opinion recognizing the inevitable dependence of Coorg on its neighbour, and weighing the anomalies and difficulties of a democratic form of constitution, would view amalgamation, with safeguards for the recognition of Coorg as a separate entity, as a source of benefit to the province and to the Coorgs as a race.

APPENDIX.

HOME DEPARTMENT.

NOTIFICATIONS.

Simla, the 30th October, 1923.

No. F.-248-22-I.—In exercise of the power conferred by subsection (2) of section 77 of the Government of India Act, the Governor General in Council is pleased to extend to the province of Coorg, with effect from such date as he may hereafter by

notification in the Gazette of India appoint, the provisions of the said Act relating to legislative councils of the lieutenant-governors and to direct that the provisions of sub-section (1) of section 77 of the said Act shall apply to the province of Coorg in like manner as they apply to a new lieutenant-governorship.

No. F.-248-22-II.—Whereas by a Notification No. F.-248-22-I. of the Government of India in the Home Department, dated the 30th October 1923, issued in exercise of the powers conferred by sub-section (2) of section 77 of the Government of India Act, the Governor General in Council has directed that the provisions of the said Act relating to legislative councils of lieutenant-governors shall be extended to the province of Coorg with effect from such date as may hereafter be appointed;

And whereas it is necessary in order that a legislative council may be constituted for the province of Coorg, for the purpose of giving effect to the said notification on such date as aforesaid, that provision should be made for the matters referred to in section 76 of the said Act in respect of the said legislative council;

And whereas a draft of rules making such provision has been approved by the Secretary of State in Council;

Now, therefore, in exercise of the power conferred by sub-section (5) of section 47 of the Government of India Act, 1919, the Governor General in Council is pleased to order that the following rules, being the rules as so approved, shall come into force at once and shall have the like effect as if they had been made under section 76 of the Government of India Act.

Short title and commencement.

1. (1) These rules may be called the Coorg Electoral Rules.

(2) They shall come into force at once.

Definitions.

2. In these rules, unless there is anything repugnant in the subject or context,—

(*a*) "the Act" means the Government of India Act;

(*b*) "Commissioners" means Commissioners appointed for the purpose of holding an election enquiry under these rules;

(*c*) "corrupt practice" means any act deemed to be a corrupt practice under the provisions of Schedule VII;

(*d*) "election agent" means the person appointed under these rules by a candidate as his agent for an election;

(*e*) "Gazette" means the Coorg District Gazette;

(*f*) "general election" means the aggregate of any elections declared by the Chief Commissioner by notification in the Gazette to constitute a general election for the purposes of these rules; and

(*g*) "Schedule" means a Schedule to these rules.

PART I.

Composition of Council and Constituencies.

Composition of legislative council.

3. The legislative council of the Chief Commissioner of Coorg shall consist of—

(1) fifteen elected members; and

(2) five members nominated by the Chief Commissioner, of whom four shall be officials and one shall be a person nominated to represent the following communities, namely, Holyas, Kurubas, Madigas and Yeravas:

Provided that the Chief Commissioner may, for the purpose of any Bill introduced or proposed to be introduced in the council, nominate one person having special knowledge or experience of the subject-matter of the Bill, and that person shall in relation to the Bill have for the period for which he is nominated all the rights of a member of the council and shall be in addition to the members above referred to.

Quorum.

4. The presence of at least eight members shall be necessary to constitute a meeting of the council for the exercise of its powers.

Constituencies.

5. The elected members shall be elected by the constituencies specified in Schedule I, and the number of members to be elected by each constituency shall be as stated therein against that constituency.

PART II.

Qualifications of Members.

General disqualifications for being elected.

6. (1) A person shall not be eligible for election or nomination as a member of the Council if such person—

(*a*) is not a British subject; or

(*b*) is a female; or

(*c*) has already made the oath or affirmation as a member of the council or of any other legislative body constituted under the Act; or

(*d*) having been a legal practitioner, has been dismissed or is under suspension from practising as such by order of any competent Court; or

(*e*) has been adjudged by a competent Court to be of unsound mind; or

(*f*) is under twenty-five years of age; or

(*g*) is an undischarged insolvent; or

(*h*) being a discharged insolvent has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part:

Provided that the Chief Commissioner may direct that, subject to such conditions as he may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be ineligible for election or nomination by reason only of not being a British subject or British subjects:

Provided, further, that the disqualification mentioned in clause (*d*) may be removed by an order of the Chief Commissioner in this behalf.

(2) A person against whom a conviction by a Criminal Court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election or nomination for five years from the date of the expiration of the sentence.

(3) If any person is convicted of an offence under Chapter IXA of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 2 or 3 of Part II, of Schedule VII, such person shall not be eligible for election or nomination for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by any such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If in respect of an election to any legislative body constituted under the Act a return of the election expenses of any person who has been nominated as a candidate at that election is not lodged within the time and in the manner prescribed by or under the rules made in that behalf, or if any such return is lodged which is found, either by Commissioners holding an inquiry into the election or by a Magistrate in a judicial proceeding, to be false in any material particular, neither the candidate nor his election agent shall be eligible for election or nomination for five years from the date of such election:

Provided that any disqualification mentioned in sub-rule (3) or sub-rule (4) may be removed by an order of the Chief Commissioner in that behalf.

Special qualifications for election in case of different constituencies.

7. (1) No person shall be eligible for election as a member of the council to represent a constituency other than the European constituency unless his name is registered on the electoral roll of the constituency or of another constituency of the same class in the province.

(2) No person shall be eligible for election as a member of the council to represent the European constituency unless his name is registered on the electoral roll of that constituency.

PART III.

The Electoral Roll.

General conditions of registration and disqualifications.

8. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency, and who is not subject to any of the disqualifications hereinafter set out, namely:—

(*a*) is not a British subject; or

(*b*) is a female; or

(*c*) has been adjudged by a competent Court to be of unsound mind; or

(*d*) is under twenty-one years of age:

Provided that the Chief Commissioner may direct that, subject to such conditions as he may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be ineligible for a election by reason only of not being a British subject or British subjects:

Provided further, that no person shall be entitled to have his name registered on the electoral roll of more than one constituency.

(2) If any person is convicted of an offence under Chapter IXA of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I or in paragraph 1, 2 or 3 of Part II of Schedule VII, his name, if on the electoral roll shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or, if not on the electoral roll, shall not be so registered for a like period; and if any person is reported by any such Commissioners as guilty of any other corrupt practice, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be so registered for a like period:

Provided that the Chief Commissioner may direct that the name of any person to whom this sub-rule applies shall be registered on the electoral roll.

Qualifications of electors.

9. The qualifications of an elector for a constituency shall be such qualifications based on—

(*i*) community,

(*ii*) residence, and

(*iii*) (*a*) assessment to property tax, tax on companies, or profession tax, or

(*b*) assessment to municipal tax, or

(*c*) assessment to house tax under the Coorg District Fund Regulation, 1900, or

(*d*) assessment to income-tax, or

(*e*) military service, or

(*f*) the holding of land,

as are specified in Schedule II in the case of that constituency.

Electoral roll.

10. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which and the time within which any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the Revising Authority.

(2) The following matters shall be determined in accordance with the provisions of Schedule III, namely:—

(1) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll;

(2) the time at which the roll shall be prepared;

(3) the publication of the roll in such manner and in such language as to give it wide publicity in the constituency to which it relates;

(4) the mode in which and the time within which claims and objections may be preferred;

(5) the constitution and appointment of Revising Authorities to dispose of claims and objections;

(6) the manner in which notices of claims or objections shall be published; and

(7) the place, date and time at which and the manner in which claims or objections shall be heard.

(3) The orders made by the Revising Authority shall be final, and the electoral roll shall be amended in accordance therewith and shall, as so amended, be re-published in such manner as the Chief Commissioner may prescribe.

(4) The electoral roll shall come into force from the date of such re-publication and shall continue in force for a period of three years after the expiration of which period a fresh roll shall be prepared in accordance with these rules:

Provided that the Chief Commissioner may, by notification in the Gazette, direct the preparation in accordance with these rules of a fresh roll at any time before the expiration of the said period.

(5) If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall,

for the purpose of that election, continue to operate as the electoral roll for the constituency.

(6) Notwithstanding anything hereinbefore contained, any person may apply to such authority as may be appointed in this behalf by the Chief Commissioner for the amendment of any electoral roll for the time being in force, and the Chief Commissioner may, at any time after any such application has been made in respect of an electoral roll, by notification in the Gazette, direct the preparation of a list of amendments thereto, and all the provisions of this rule shall apply in the case of every such list in like manner as they apply in the case of electoral rolls:

Provided that, where any such application is made for the correction of an existing entry in the electoral roll, and the said authority is satisfied that the entry relates to the applicant and is erroneous or defective in any particular, he may amend the roll or cause it to be amended accordingly.

(7) When any list of amendments has been re-published under sub-rule (6), the electoral roll to which it relates shall be deemed to have been amended accordingly.

Right to vote.

11. (1) Every person registered on the electoral roll for the time being in force for any constituency shall, while so registered, be entitled to vote at an election of a member or members for that constituency:

Provided that—

(*a*) no person shall vote at any general election in more than one constituency, and

(*b*) no person shall vote at any election if he is subject to any disability stated in rule 8.

(2) If any person is, in the course of the hearing of an election petition under these rules, proved to have voted at the election in contravention of the proviso to sub-rule (1), his vote shall be void.

PART IV.

Elections.

Nomination of candidates.

12 (1) Any person may be nominated as a candidate for election in any constituency for which he is eligible for election under these rules.

(2) The Chief Commissioner shall appoint for each constituency—

(*a*) a date, not later than the fourteenth day after the date of the notification calling upon the constituency to elect a member, for the nomination of candidates;

(*b*) a further date, not later than the seventh day after the first mentioned date, for the scrutiny of nominations; and

(*c*) a further date on which a poll shall, if necessary, be taken; and the dates so appointed shall be notified in the constituency in such manner as the Chief Commissioner thinks fit.

(3) On or before the date so appointed for the nomination of candidates, each candidate shall, either in person or by his proposer and seconder together, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon, deliver to the Returning Officer or to such other person as may be authorised by the Chief Commissioner in this behalf a nomination paper completed in the form prescribed in Schedule IV and subscribed by the candidate himself as assenting to the nomination and by two persons as proposer and seconder whose names are registered on the electoral roll of the constituency.

(4) Any person whose name is registered on the electoral roll of the constituency, and who is not subject to any disability stated in rule 8, may subscribe, as proposer or seconder, as many nomination papers as there are vacancies to be filled, but no more.

(5) Every nomination paper delivered under sub-rule (3) shall be accompanied by a declaration in writing subscribed by the candidate that the candidate has appointed or does thereby appoint as his election agent for the election either himself or some one other person who is not disqualified under these rules for the appointment and who shall be named in the declaration; and no candidate shall be deemed to be duly nominated unless such declaration is delivered along with the nomination paper.

(6) Any nomination paper which is not received before three o'clock in the afternoon on the date appointed by the Chief Commissioner for the nomination of candidates shall be rejected.

(7) The Returning Officer or other person authorised shall, on receiving a nomination paper under sub-rule (3), inform the person or persons delivering the same of the date, hour and place appointed for the scrutiny of nominations, and shall enter in the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing description, similar to those contained in the nomination paper, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

(8) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer or other person authorised on or before three o'clock in the afternoon on the date succeeding that appointed by the Chief Commissioner for the scrutiny of nominations. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be re-nominated as a candidate for the same election.

(9) The Returning Officer or other person authorised shall, on receiving a notice of withdrawal under sub-rule (8), as soon as

may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

Deposit on nomination.

13. (1) On or before the date appointed for the nomination of candidates, each candidate shall deposit or cause to be deposited with the Returning Officer the sum of two hundred and fifty rupees in cash or in Government Promissory Notes of equal value at the market rate of the day; and no candidate shall be deemed to be duly nominated unless such deposit has been made.

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in sub-rule (8) of rule 12, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made; and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the persons by whom it was made.

(3) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him does not exceed, in the case of a constituency returning one or two members, one-eighth of the total number of votes polled or, in the case of a constituency returning more than two members, one-eighth of the number of votes polled, divided by the number of members to be elected, the deposit shall be forfeited to the Government.

(4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers, counted.

(5) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is elected and thereafter his seat is declared vacant under these rules owing to his failure to make the oath or affirmation hereinafter prescribed, the deposit shall be forfeited to the Government.

(6) The deposit made in respect of a candidate who is not elected shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Gazette; and the deposit made in respect of a candidate who is elected shall, if it is not forfeited under sub-rule (5), be so returned as soon as may be after the candidate has made the oath or affirmation hereinafter prescribed:

Provided that, if a candidate is duly nominated at a general election in more than one constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the Government.

Death of candidates before poll.

14. If a candidate who has been duly nominated dies after the date appointed for the scrutiny of nominations and before the date appointed for the taking of a poll, the Returning Officer or

other authorised person referred to in sub-rule (3) of rule 12 shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Chief Commissioner, and all proceedings with reference to the election shall be commenced anew in all respect as if for a new election:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermanding of the poll.

Procedure at election.

15. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in sub-rule (8) of rule 12 exceeds that of the vacancies, a poll shall be taken.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies all such candidates, if any, shall be declared to be elected, and the Chief Commissioner shall, by a notification in the Gazette, call upon the constituency to elect a person or persons, as the case may be, within such time as may be prescribed by the notification:

Provided that, where the constituency, having already been called upon under this sub-rule, has failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the Chief Commissioner shall not be bound to call again upon the constituency to elect a person or persons until such time, if any, as he thinks fit.

(4) Votes shall be given by ballot, and, except in the European constituency, in person:

Provided that the Chief Commissioner may—

(*a*) in the case of any specified constituency or of any specified part of any constituency, or

(*b*) in respect of any person attending at a polling station in any constituency under the orders of, or under authority from, the Returning Officer of such constituency,

direct that votes may be given otherwise than in person:

Provided, further, that no votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected; but no elector shall give more than one vote to any candidate.

(6) Votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate, the election agent of each candidate, and one representative of each candidate authorised in writing by the candidate shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candi-

dates, as the case may be, to whom the largest number of votes has been given, to be elected.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

(9) The Returning Officer shall without delay report the result of the election to the Secretary to the Council, and the name or names of the candidate or candidates elected shall be published in the Gazette.

Provisions regarding the conduct of election.

16. The following matters shall be determined in accordance with the provisions of Schedule V, namely:—

(1) the scrutiny of nominations, the manner in which such scrutiny shall be conducted, and the conditions and circumstances in which any person may be present or may enter objections thereat;

(2) the appointment in each constituency of a Returning Officer and his powers and duties, and the performance by other persons of any power or duty of the Returning Officer;

(3) the division of constituencies into polling areas, and the appointment of polling stations for these areas;

(4) the appointment of officers to preside at polling stations and the duties of such officers;

(5) the checking of voters by reference to the electoral roll;

(6) the manner in which votes are to be given generally, and in the case of illiterate voters or voters under physical or other disability;

(7) the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors;

(8) the scrutiny of votes;

(9) the safe custody of ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers; and

(10) the conduct of elections generally.

Multiple elections.

17. (1) If any person is elected either by more than one constituency of the council or by a constituency of the council and a constituency of the legislative council of another province, he shall, by notice in writing signed by him and delivered to the Secretary to the Council or the Secretaries to both Councils, as the case may be, within seven days from the date of the publication of the result of such election in the local official Gazette, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(2) When any such choice has been made, the Chief Commissioner shall call upon the constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-rule (1) the election of such person shall be void, and the Chief Commissioner shall call upon the constituency or constituencies concerned to elect another person or persons.

Election Agents and Return of Expenses.

Disqualification for being election agent.

18. No person shall be appointed an election agent who is himself ineligible for election as being subject to any disqualification mentioned in sub-rule (3) or sub-rule (4) of rule 6.

Revocation of appointment of election agent.

19. (1) The appointment of an election agent, whether the election agent appointed be the candidate himself or not, may only be revoked in a writing signed by the candidate and lodged with the officer receiving nominations, and shall operate from the date on which it is so lodged.

(2) In the event of such a revocation or of the death of any election agent, whether such event occurs before, during or after the election, the candidate shall appoint forthwith another election agent and declare his name in writing to the said officer.

Return of election expenses.

20. (1) Within thirty-five days from the date of the publication of the result of an election under sub-rule (9) of rule 15, there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate for the election a return of the election expenses of such person in the form prescribed in Schedule VI and signed both by the candidate and by his election agent.

(2) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in Schedule VI, and shall be made on oath or affirmation before a Magistrate.

(3) Notwithstanding anything hereinbefore contained, where a candidate is owing to absence from India unable to sign the return of election expenses and to make the declaration within the period prescribed in this rule, the return shall be signed and lodged by the election agent only and shall be accompanied by a declaration by the election agent under sub-rule (2), and, within fourteen days after the return of the candidate to India, he shall cause to be lodged with the Returning Officer a declaration made on oath or affirmation before a Magistrate in the special form for the purpose contained in the said Schedule.

(4) When any return and the declarations made in respect thereof have been lodged with the Returning Officer, the Returning Officer shall, as soon as may be, cause a notice of the date on which the return and declarations in question have been lodged, and of the time and place at which they can be inspected to be fixed in some conspicuous place in his office and to be published in the Gazette, and any person shall, on payment of a fee of one rupee, be entitled

to inspect any such return or declaration and, on payment of such fee as the Chief Commissioner may prescribe, to obtain a copy or copies thereof or of any part thereof.

(5) The Chief Commissioner shall cause to be prepared in such manner and maintained for such time, as he may direct, a record showing the names of all candidates at every election under these rules and the name of the election agent of each such candidate and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

Fixation of maximum election expenses.

21. (1) The Governor General in Council may, by notification in the Gazette,—

(*a*) fix maximum scales of election expenses which shall be applicable to any election held after the first elections under these rules; and

(*b*) prescribe the numbers and descriptions of persons who may be employed for payment in connection with any election held under these rules.

(2) Any notification issued under this rule may make different provisions for different constituencies.

Accounts of agents.

22. Every election agent shall, for each election for which he is appointed an election agent, keep separate and regular books of account in which the particulars of all expenditure of the nature referred to in Schedule VI shall be entered, whether such expenditure is incurred by the candidate or by the election agent, or by any person under the direction of the candidate or the election agent.

PART V.

General Provisions.

Obligation to take Oath.

Taking of oath.

23. Every person who is elected or nominated to be a member of the council shall, before taking his seat make, at a meeting of the council, an oath or affirmation of his allegiance to the Crown in the following form, namely:—

I. A. B., having been $\frac{\text{elected}}{\text{nominated}}$ a member of this council, do solemnly swear (*or* affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

Vacation of Seat.

Effect of subsequent disabilities

24. If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clauses (*a*), (*c*), (*d*), (*e*), (*g*) and (*h*) of sub-rule (1) or in sub-rules (2),

(3) and (4) of rule 6 or fails to make the oath or affirmation prescribed by rule 23 within such time as the Chief Commissioner considers reasonable, the Chief Commissioner shall, if the disqualification has not been removed under these rules by notification in the Gazette, declare his seat to be vacant. or failure to take oath.

First Constitution of the Council.

25. (1) As soon as conveniently may be, after these rules come into force, a council shall be constituted in accordance with their provisions. Constitution of council.

(2) For this purpose the Chief Commissioner shall, by notification in the Gazette, call upon the constituencies referred to in rule 4 to elect members in accordance with these rules within such time as may be prescribed by such notification, and shall make such nominations as may be necessary to complete the council before the date fixed for its first meeting.

Terms of Office, Vacancies and Special Provision.

26. (1) Save as otherwise provided in this rule, the term of office of a member of the council shall be three years commencing from the date on which he makes the oath or affirmation prescribed by rule 23: Terms of office.

Provided that official members shall hold office for three years or such shorter period as the Chief Commissioner may, at the time of nomination, determine:

Provided further that the Chief Commissioner may, by notification in the Gazette, extend, for a period of not more than one year, the term of office of members or of any member elected or nominated under these rules.

(2) A member elected or nominated upon an election being declared void or a seat being declared vacant, or to fill a casual vacancy occurring by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, or otherwise, shall hold office as long as the member whose place he fills would have been entitled to hold office if the election had not been declared void or the seat had not been declared vacant, or the vacancy had not occurred, as the case may be.

27. When a vacancy occurs in the case of a nominated or elected member either by reason of the expiration of the period referred to in sub-rule (1) of rule 26 or by reason of an election being declared void, or a seat being declared vacant, or by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, or at any time within three months of the date when such a vacancy will occur in the ordinary course of events, the Chief Commissioner, by notification in the Gazette, shall— Vacancies.

(*a*) in the case of a nominated member, nominate a person to the vacancy having the necessary qualifications under these rules, and

(*b*) in the case of an elected member, call upon the constituency concerned to elect a member, in accordance with these rules within such time as may be prescribed by such notification.

Power of local government in case of difficulty.

28. If any difficulty arises as to the preparation or publication of any electoral roll or of any list of amendments to any such roll or as to the holding of any election under these rules, the local government may by order do anything not inconsistent with these rules which appears to it to be necessary for the proper preparation or publication of the roll or list of amendments or for the proper holding of the election, as the case may be.

PART VI.

Final Decision of Doubts and Disputes as to the Validity of an Election.

Definitions.

29. In this Part and in Schedule VII, unless there is anything repugnant in the subject or context,—

(*a*) " agent " includes an election agent and any person who is held by Commissioners to have acted as an agent in connection with an election with the knowledge or consent of the candidate;

(*b*) " candidate " means a person who has been nominated as a candidate at any election or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate at such election, provided that he is subsequently nominated as a candidate at such election;

(*c*) " electoral right " means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election; and

(*d*) " returned candidate " means a candidate whose name has been published under these rules as duly elected.

The election petition.

30. No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

Presentation of the petition.

31. (1) An election petition against any returned candidate may be presented to the Chief Commissioner—

(*a*) by any candidate or elector within fourteen days from the date on which the return of the election expenses of the returned candidate and the declarations, referred to in rule 20, are received by the Returning Officer; or

(*b*) within thirty days from that date by an officer empowered by the Chief Commissioner in this behalf, on the ground

that the election has not been a free election by reason of the large number of cases in which undue influence or bribery has been exercised or committed; or

(*c*) on the ground that the returned candidate or his election agent or any other person acting with the connivance of the candidate or of his election agent has been guilty of the offence of bribery, undue influence or personation, as defined in Chapter IXA of the Indian Penal Code, in respect of the election, by any candidate or elector within fourteen days from the date on which such returned candidate, election agent or other person is convicted of such offence.

(2) An election petition shall be deemed to have been presented to the Chief Commissioner when it is delivered to the Chief Commissioner or to any officer appointed by him in this behalf—

(*a*) by the person making the petition; or

(*b*) by a person authorised in writing in this behalf by the person making the petition; or

(*c*) by registered post.

(3) When the last day of the period for the presentation of an election petition under this rule is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Chief Commissioner as a day to be observed as a holiday in Government offices, the petition shall be considered as having been received in due time if it is presented on the next succeeding day which is neither such a public holiday nor a day so notified.

(4) For the purposes, of clause (*a*) of sub-rule (1), the date on which the return of the election expenses and the declarations referred to in rule 20 are received by the Returning Officer shall, in the case of a candidate who has made such return and declaration in the manner provided in sub-rule (3) of that rule, be deemed to be the date on which the declaration of the candidate under that sub-rule is received.

Contents of the petition.

32. (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies, and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) The commissioners may, upon such terms as to costs and otherwise as they may direct at any time, allow the particulars

included in the said list to be amended, or order such further and better particulars in regard to any matter referred to therein to be furnished as may in their opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition.

Against whom it may be presented.

33. The petitioner may, if he so desires, in addition to calling in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected; in which case he shall join, as respondents to his petition, all other candidates who were nominated at the election.

Deposit of security.

34. At the time of presentation of the petition, the petitioner shall, except where the petition is presented under clause (*b*) of sub-rule (1) of rule 31, deposit with it the sum of two hundred and fifty rupees in cash or in Government Promissory Notes of equal value at the market rate of the day as security for the cost of the same.

Dismissal for default.

35. (1) If the provisions of rule 31, rule 32 or rule 34 are not complied with, the Chief Commissioner shall dismiss the petition.

(2) If the petition is not dismissed under sub-rule (1)—

(*a*) the Chief Commissioner shall appoint as Commissioners for the trial of the petition three persons, of whom one shall be a judicial officer not below the status of a Munsiff of not less than five years' standing and one shall be a pleader, of not less than five years' standing, of any Court which is a High Court within the meaning of clause (24) of section 3 of the General Clauses Act, 1897. The Chief Commissioner shall appoint one of the Commissioners to be the President, and thereafter all applications and proceedings in connection therewith shall be dealt with and held by such Commissioners;

(*b*) the President of the Commission shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the Gazette, and may call on the petitioners to execute a bond in such amount and with such sureties as he may require for the payment of any further costs. At any time within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond:

Provided that the execution of such a bond by the petitioner shall not be required in any case where the petition has been presented under clause (*b*) of sub-rule (1) of rule 31.

(3) When in respect of an election in a constituency more petitions than one are presented the Chief Commissioner shall refer all such petitions to the same Commissioners, who may at their discretion inquire into the petitions either in one or in more proceedings as they shall think fit.

(4) If the services of any Commissioner are not available for the purposes of the inquiry, or if, during the course of the inquiry, any Commissioner is unable to continue to attend the same, the Chief Commissioner shall appoint another Commissioner and the inquiry shall recommence before the Commission as so reconstituted:

Provided that the Commissioners may direct that any evidence already recorded may remain upon the record, in which case it shall not be necessary to re-examine those witnesses who have already been examined and discharged.

(5) Nothing in this rule shall be deemed to prevent the appointment of the President of a Commission before the other Commissioners are appointed and, if the President is so appointed, all references to the Commissioners in these rules shall, in respect of any matter which may be or is to be done before the commencement of the inquiry, be deemed to be references to the President.

Inquiry by Commissioners.

36. Subject to the other provisions of these rules, every election petition shall be inquired into by the Commissioners, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

Provided that it shall only be necessary for the Commissioners to make a memorandum of the substance of the evidence of any witness examined by them.

Place of inquiry.

37. The inquiry shall be held at such place as the Chief Commissioner may appoint:

Provided that the Commissioners may, in their discretion, sit at any other place in the province for any part of the inquiry, and may depute any one of their number to take evidence at any place in the province.

Withdrawal of petition.

38. (1) An election petition may be withdrawn only by leave of the Commissioners or, if an application for withdrawal is made before any Commissioner has been appointed, of the Chief Commissioner.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(3) When an application for withdrawal is made to the Commissioners, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Gazette.

(4) No application for withdrawal shall be granted if, in the opinion of the Chief Commissioner or of the Commissioners, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

(*a*) the petitioner shall, where the application has been made to the Commissioners, be ordered to pay the costs of

the respondent theretofore incurred or such portion thereof as the Commissioners may think fit;

(*b*) notice of the withdrawal shall be published in the Gazette by the Chief Commissioner, or by the Commissioners, as the case may be; and

(*c*) any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions of rule 34 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

Abatement or substitution on death of petitioner.

39. (1)An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners:

Provided that, where such sole petitioner was an officer empowered under clause (*b*) of sub-rule (1) of rule 31, the proceedings may be continued by any other officer empowered in this behalf by the Chief Commissioner.

(2) Notice of the abatement of an election petition shall be published in the Gazette by the Commissioners or, if the petition abates before any Commissioner has been appointed, by the Chief Commissioner.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner, and, upon compliance with the conditions of rule 34 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

Abatement or substitution on death of respondent.

40. If before the conclusion of the trial of an election petition the respondent dies or gives notice that he does not intend to oppose the petition, the Commissioners shall cause notice of such event to be published in the Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Commissioners may think fit.

Recrimination when seat claimed.

41. (1) Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under clause (*b*) of sub-rule (2) of rule 35, given notice of his intention to the Commissioners and made the deposit and procured the execution of the bond referred to in rules 34 and 35, respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and list of particulars required by rule 32 in the case of an election petition, and shall be signed and verified in like manner.

Attendance of Law Officer.

42. When at an inquiry into an election petition the Commissioners so order, such officer, as the Chief Commissioner may appoint in this behalf shall attend and take such part therein as they may direct.

Grounds for declaring election void.

43. (1) Save as hereinafter provided in this rule, if, in the opinion of the Commissioners,—

(*a*) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or

(*b*) any corrupt practice specified in Part I of Schedule VII has been committed, or

(*c*) the result of the election has been materially affected by the improper acceptance or refusal of any nomination or by the improper reception or refusal of a vote, or by the reception of any vote which is void, or by any non-compliance with the provisions of the Act or these rules, or by any mistake in the use of any form annexed thereto, or

(*d*) the election has not been a free election by reason of the large number of cases in which undue influence or bribery, within the meaning either of Part I or of Part II of Schedule VII has been exercised or committed,

the election of the returned candidate shall be void.

(2) If the Commissioners report that a returned candidate has been guilty by an agent (other than his election agent) of any corrupt practice specified in Part I of Schedule VII which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Commissioners further report that the candidate has satisfied them that—

(*a*) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and

(*b*) such candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at such election, and

(*c*) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character, and

(*d*) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

then the Commissioners may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-rule, " treating " means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

Report of Commissioners and procedure thereon.

44. (1) At the conclusion of the inquiry, the Commissioners shall report whether the returned candidate, or any other party to the petition who has under the provisions of these rules claimed the seat, has been duly elected, and in so reporting shall have regard to the provisions of rule 43.

(2) The report shall further include a recommendation by the Commissioners as to the total amount of costs which are payable and the persons by and to whom such costs should be paid. Such recommendation may include a recommendation for the payment of costs to the officer attending in pursuance of an order made under rule 42.

(3) The report shall be in writing and shall be signed by all the Commissioners. The Commissioners shall forthwith forward their report to the Chief Commissioner who, on receipt thereof, shall issue orders in accordance with the report and publish the report in the Gazette, and the orders of the Chief Commissioner shall be final.

Form of reports.

45. If either in their report or upon any other matter there is a difference of opinion among the Commissioners, the opinion of the majority shall prevail, and their report shall be expressed in the terms of the views of the majority.

Finding as to corrupt practices and persons guilty thereof.

46. Where any charge is made in an election petition of any corrupt practice, the Commissioners shall record in their report—

(*a*) a finding whether a corrupt practice has or has not been proved to have been committed by any candidate or his agent, or with the connivance of any candidate or his agent, and the nature of such corrupt practice, and

(*b*) the names of all persons (if any) who have been proved at the inquiry to have been guilty of any corrupt practice and the nature of such corrupt practice with any such recommendations as they may desire to make for the exemption of any such person from any disqualifications they may have incurred in this connection under these rules:

Provided that no person shall be so named in the report unless he has been given a reasonable opportunity of showing cause why his name should not be so recorded.

PART VII.

Special Provision.

47. If any question arises as to the interpretation of these rules otherwise than in connection with an election inquiry held thereunder, the question shall be referred for the decision of the Chief Commissioner, and his decision shall be final. Interpretation in case of doubt.

SCHEDULE I.

(See *rule 5*.)

LIST OF CONSTITUENCIES.

Name of constituency.	Class of constituency.	Extent of constituency.	Number of members.
1	2	3	4
European	European .	The Province of Coorg . .	2
Somwarpet-Sanivarsante-Fraserpet (Jama).	Jama .	Somvarpetnad, Sanivarsante Hobli and Fraserpet Hobli of the North Coorg Taluk.	1
Mercara-Bhagmandala-Suntikoppa (Jama).	Do. .	Mercaranad, Bhagmandalanad and Suntikoppanad of the North Coorg Taluk.	2
Virajpet-Napoklu-Ammatti (Jama).	Do. .	Virajpetnad, Napoklunad and Ammattinad of the South Coorg Taluk.	3
Ponnampet-Srimangala (Jama)	Do. .	Ponnampetnad and Srimangalanad of the South Coorg Taluk.	3
Somwarpet-Sanivarsante-Fraserpet.	Non-Jama .	Somwarpetnad, Sanivarsante Hobli and Fraserpet Hobli of the North Coorg Taluk.	1
Mercara-Bhagmandala-Suntikoppa.	Do. .	Mercaranad, Bhagmandalanad and Suntikoppanad of the North Coorg Taluk.	1
Virajpet-Napoklu-Ammatti .	Do. .	Virajpetnad, Napoklunad and Ammattinad of the South Coorg Taluk.	1
Ponnampet-Srimangala . .	Do. .	Ponnampetnad and Srimangalanad of the South Coorg Taluk.	1

SCHEDULE II.

(See *rule 9.*)

QUALIFICATIONS OF ELECTORS.

Definitions.

1. For the purposes of this Schedule—

(*a*) " previous year " means the financial year preceding that in which the electoral roll, or the list of amendments thereto, as the case may be, for the time being under preparation is first published under these rules;

(*b*) " European " means any person of European descent in the male line being a British subject and resident in British India, who either was born in or has a domicile in the United Kingdom or in any British possession or in any State in India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile;

(*c*) " jama tenure land " means land assessed at one-half the normal (*sagu*) rate of assessment;

(*d*) " non-jama tenure land " means land assessed at the full normal (*sagu*) rate of assessment.

Revenue accounts, etc., to be conclusive evidence.

2. For the purpose of determining any claim to a qualification under this Schedule, the entries in the land revenue accounts regarding the amounts of assessment and rent payable, and the entries in municipal records regarding the amounts of taxes assessed or paid shall be conclusive evidence of the facts stated therein.

European constituency.

3. A person shall be qualified as an elector for the European constituency who is a European and who resided in the constituency for not less than one hundred and twenty days in the previous year, and who—

(*a*) is a member of one of the Associations affiliated to the United Planters' Association of Southern India; or

(*b*) possesses any of the qualifications hereinafter prescribed for an elector for a jama or a non-jama constituency; or

(*c*) is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Majesty's regular forces who has served as such officer, non-commissioned officer or soldier for an aggregate period of not less than 3 years.

Jama constituencies.

4. A person shall be qualified as an elector for a jama constituency who is not a European and who resided in the constituency for not less than one hundred and twenty-days in the previous year, and who—

(*a*) owns jama tenure land, the land revenue of which has been assessed or is assessable at not less than five rupees per annum; or

(*b*) owns both jama tenure and non-jama tenure land, the aggregate land revenue of which would be assessable at the jama tenure rate at not less than five rupees per annum; or

(*c*) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces who has served as such officer, non-commissioned officer, or soldier for an aggregate period of not less than three years.

Non-jama constituencies.

5. A person shall be qualified as an elector for a non-jama constituency who is not a European and who resided in the constituency for not less than one hundred and twenty days in the previous year, and who—

(*a*) owns non-jama tenure land, the land revenue of which has been assessed or is assessable at not less than ten rupees per annum; or

(*b*) was in the previous year assessed to income-tax; or

(*c*) was in the previous year assessed to an aggregate amount of not less than Rs. 10 in respect of one or more of the following taxes, namely:—

(*i*) house tax of the nature referred to in clause (*b*) of section 2 of the Coorg District Fund Regulation, 1900;

(*ii*) any tax imposed under sub-clause (*i*), sub-clause (*ii*) or sub-clause (*iii*) of clause (*a*) of section 35 of the Coorg Municipal Regulation, 1907; or

(*d*) is a retired pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces who has served as such officer, non-commissioned officer, or soldier for an aggregate period of not less than three years.

Joint families.

6. If property is held or payments are made jointly by the members of a joint family or by joint pattedars, the family or joint holding shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists; and, if it does exist, the person qualified shall be the member authorised by a majority of the family or of the joint holders, or, in the case of a Hindu joint family, the manager thereof unless some other member is authorised as aforesaid.

Person not qualified in both personal and representative capacity.

7. A person may be qualified either in his personal capacity or in the capacity of a representative of a joint family or of joint pattedars, but not in both capacities.

Fiduciary capacity not recognized.

8. Save as provided in paragraph 6 of this Schedule, no person shall be qualified as an elector in respect of any property unless he possesses the prescribed property qualification in his own personal right, and not in a fiduciary capacity.

SCHEDULE III.

(See *rule 10.*)

1. In this Schedule—

(*a*) " Returning Officer " means such officer as the Chief Commissioner may, by notification in the Gazette, appoint for a constituency to perform all or any of the duties of the Returning Officer under this Schedule, and includes any officer deputed for the time being by the Returning Officer to perform any such duty;

(*b*) " Revising Officer " means such officer as the Chief Commissioner may appoint to be Revising Officer for a constituency.

2. During the month of July in any year in which an electoral roll is to be prepared, the Returning Officer shall prepare and publish at the place declared by the Chief Commissioner by notification in the Gazette to be the headquarters of the constituency and at such other places as he may think fit, a draft electoral roll in the Form annexed to this Schedule, together with a notice stating that any objections relating to entries in or omissions from the electoral roll may be preferred to the Revising Officer on or before the 31st of August. The roll shall be prepared in English and in Canarese and in such other language or languages as the Chief Commissioner may direct.

3. The Revising Officer shall fix a place, and a date not later than the 30th of September, for hearing objections to the electoral roll, and shall give notice of the place and date so fixed to all parties concerned in such manner as the Chief Commissioner may prescribe.

4. The Revising Officer may, before the date fixed by him under paragraph 3, of his own motion revise the electoral roll; any alteration in the roll made on such revision shall be published before such date and in such manner as the Chief Commissioner may prescribe.

5. The Revising Officer shall, at the place and on the date fixed under paragraph 3, hear and decide objections to the draft electoral roll as also to any revision of the roll made by him on his own motion.

6. On the 1st of October the Revising Officer shall send a copy of the electoral roll as revised, to the Returning Officer.

7. The Returning Officer shall re-publish the electoral roll, as so revised, at the place declared by the Chief Commissioner by notification in the Gazette to be the headquarters of the constituency and at such other places, as he may think fit, on or before the 31st October.

8. The Chief Commissioner may by notification in the Gazette, substitute any period or date for any period or date, as the case may be, specified in this Schedule.

THE FORM.

Electoral roll for *Constituency.*

Part Registration area

Section Polling area No. comprising the following villages. / comprising the following wards or divisions.

Serial number.	Name.	Father's or Pattedar's name.	Address (village or street and door number).	Head of qualification.
(1)	(2)	(3)	(4)	(5)

SCHEDULE IV.

(See *rule 12.*)

FORM OF NOMINATION PAPER.

NOMINATION PAPER.

Name of the constituency for which the candidate is nominated . . . . . .

Name of candidate . . . . . .

Father's name . . . . . .

Age . . . . . .

Address . . . . . .

Denomination (*state whether European or Indian*) . . . . . .

Constituency on the electoral roll of which the candidate is registered as an elector .

*No. of the candidate in the electoral roll of the constituency in which he is registered as an elector . . . . . .

Name of proposer . . . . . .

*No. of the proposer in the electoral roll of the constituency . . . . . .

Signature of the proposer . . . . .

Name of the seconder . . . . . .

*No. of the seconder in the electoral roll of the constituency . . . . . .

Signature of the seconder . . . . .

Declaration by Candidate.

I hereby declare that I agree to this nomination.

Date . Signature of Candidate.

* Where the electoral roll is sub-divided and separate serial numbers are assigned to the electors entered in each sub-division, a description of the sub-division in which the name of the person concerned is entered must also be given here.

(*To be filled in by the Returning Officer or other authorised person.*)

Certificate of delivery.

Serial Number .

This nomination paper was delivered to me at my office at (date and hour).

Returning Officer or other authorised person.

Certificate of Scrutiny.

I have scrutinized the eligibility of the candidate, the proposer and seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

Returning Officer.

SCHEDULE V.

(*See rule 16.*)

1. The Chief Commissioner shall, by notification in the Gazette, appoint for each constituency a Returning Officer who shall, in respect of such constituency, perform all the functions of the Returning Officer under this Schedule:

Provided that such of the functions of the Returning Officer as the Chief Commissioner may specify by a like notification in this behalf may be performed by such other person as may be so specified, and any such person shall, with reference to the performance of any such function, be deemed to be the Returning Officer for the purposes of this Schedule.

Scrutiny of Nominations.

2. On the date appointed by the Chief Commissioner for the scrutiny of nominations under sub-rule (2) of rule 12, the candidates, their election agents, one proposer, and one seconder of each candidate, and one other person, duly authorised in writing by each candidate, but no other person, may attend at such time and place as the Returning Officer may appoint, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner prescribed in rule 12.

3. (1) The Returning Officer shall examine the nomination papers and shall decide all objections which may be made to any nomination, and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds:—

(*i*) that the candidate is ineligible for election under rule 6 or rule 7;

(*N.B.*—This nomination paper will not be valid unless it is delivered to the Reurning Officer, or other person authorised to receive it, at his office before 3-0 P.M. on 19 .)

(*ii*) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-rule (4) of rule 12;

(*iii*) that there has been any failure to comply with any of the provisions of rule 12 or rule 13;

(*iv*) that the candidate or any proposer or seconder is not identical with the person whose electoral number is given in the nomination paper as the number of such candidate, proposer or seconder, as the case may be;

(*v*) that the signature of the candidate or of any proposer or seconder is not genuine or has been obtained by fraud.

(2) For the purposes of this paragraph—

(*a*) the production of any certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any elector named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under rule 6 or rule 7 or, as the case may be, that the proposer or seconder is disqualified under sub-rule (4) of rule 12, and

(*b*) where a person has subscribed whether as proposer or seconder a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

(3) Nothing contained in clause (*ii*), clause (*iii*), clause (*iv*), or clause (*v*) of sub-paragraph (1) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

4. (1) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(2) The scrutiny shall be completed on the day appointed in this behalf under clause (*b*) of sub-rule (2) of rule 12, and no adjournment of the proceedings shall be allowed.

5. On completion of the scrutiny of nominations and after the expiry of the period within which candidatures may be withdrawn under sub-rule (8) of rule 12, the Returning Officer shall forthwith prepare a list of valid nominations and cause it to be affixed in some conspicuous place in his office.

6. If the number of duly nominated candidates is greater than the number of vacancies, the Returning Officer shall forthwith publish in the Gazette, and in such other manner as the Chief Commissioner may prescribe, and in such places in the constituency

as he may consider necessary, the names of the candidates as given in the nomination papers in alphabetical order.

Voting in Jama and non-Jama Constituencies.

7. The Chief Commissioner shall appoint the hour at which the poll shall commence and the hour at which it shall close on the date appointed for the poll under clause (*c*) of sub-rule (2) of rule 12. The hours so fixed shall be published by notification in the Gazette and in such other manner as the Chief Commissioner may direct.

8. (1) The Returning Officer shall select for each constituency as many polling stations as he thinks necessary, and shall publish, in such manner as the Chief Commissioner may prescribe, a list showing the polling stations so selected, and the polling areas for which they have respectively been selected.

(2) The Returning Officer shall appoint a presiding officer for each polling station and such other persons (hereinafter referred to as polling officers) to assist the presiding officer as he thinks necessary.

9. (1) The presiding officer shall keep order at the polling station, shall see that the election is fairly conducted, shall regulate the number of electors to be admitted at one time, and shall exclude all other persons except—

(*a*) the polling officers, the candidates, and one agent of each candidate (hereinafter referred to as the polling agent) appointed in writing by the candidate, and authorised in this behalf by the Returning Officer,

(*b*) the police or other public servants on duty, and

(*c*) such other persons as the presiding officer may from time to time admit for the purpose of identifying electors.

(2) The presiding officer shall close the polling station at the hour appointed in that behalf by the Chief Commissioner under paragraph 7, so as to prevent the admission thereto of any voter after that hour.

10. No ballot paper shall be issued after the closing hour appointed under paragraph 7, but any voter who has received his ballot paper before that hour shall be allowed a reasonable opportunity to record his vote.

11. Each polling station shall be furnished with such number of compartments, in which voters can record their votes screened from observation, as the Returning Officer thinks necessary.

12. (1) The Returning Officer shall provide at each polling station materials sufficient for the purpose of enabling voters to mark the ballot papers, instruments for stamping the official mark on such papers, as many ballot boxes as may be necessary, and copies of the electoral roll or of such part thereof as contains the names of the electors entitled to vote at such station.

(2) The official mark shall be kept secret, and a period of not less than seven years shall intervene between the use of the same official mark at elections for the same constituency.

13. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, immediately before the commencement of the poll, shall show the ballot box empty to such persons as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

14. Before the polling station is open for the recording of votes, the presiding officer shall read to such persons as may be present the provisions of section 14 of the Election Offences and Inquiries Act, 1920, and shall explain the substance thereof in the vernacular of the district.

15. Immediately before a ballot paper is delivered to an elector, it shall be marked on the back with the official mark, and the number, name and description of the elector as stated in the electoral roll shall be called out, and the number of the elector shall be entered on the counterfoil, and a mark shall be placed in a copy of the electoral roll against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received. On the counterfoil shall be entered the name of the constituency and the name or distinctive number of the polling station.

16. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and, after shewing to the presiding officer the official mark, shall put his ballot paper, so folded up, into the ballot box. Every elector shall vote without undue delay and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

17. The presiding officer shall give such assistance as may be required to any elector who is by reason of infirmity or illiteracy unable to vote in the manner prescribed.

18. At any time before a ballot paper is delivered to an elector, the presiding officer or polling officer may, of his own accord, if he has reason to doubt the identity of the elector or his right to vote at such station, and shall, if so required by a candidate or polling agent, put to the elector the following questions:—

(1) Are you the person enrolled as follows (reading the whole entry from the roll)?

(2) Have you already voted at the present election in this constituency and at a general election?

(3) Have you already voted at this general election for the legislative council in any other constituency?

and the elector shall not be supplied with a ballot paper if he refuses to answer one of the questions and unless he answers the first question in the affirmative, the second question in the negative, and, at a general election, the third question also in the negative.

19. The ballot paper shall be in Form I annexed to this Schedule. The ballot papers shall be serially numbered, the serial number being printed on the face of the counterfoil and on the back of the ballot paper.

20. If a person representing himself to be a particular elector named on the electoral roll applies for a ballot paper after another person has voted as such elector, the applicant shall, after duly answering such questions as the presiding officer may ask, be entitled to mark a ballot paper in the same manner as any other voter. Such ballot paper (hereinafter referred to as a tendered ballot paper) shall be of a colour different from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number on the electoral roll and the name of the electoral area to which the roll relates, and shall be set aside in a separate packet and shall not be counted by the Returning Officer. The name of the voter and his number in the electoral roll and the name or distinctive number of the polling station to which the roll relates shall be entered in a list in Form II annexed to this Schedule, which shall bear the heading " Tendered votes list ". The persons tendering such ballot paper shall sign his name and address thereon or affix his thumb impression against the entry in that list.

21. If any polling agent declares and undertakes to prove that any person by applying for a ballot paper has committed the offence of personation, the presiding officer may require such person to enter in the list of challenged votes (which shall be in Form III annexed to this Schedule) his name and address, or, if he is unable to write, to affix his thumb impression thereto, and may further require such person to produce evidence of identification. If such person on being questioned in the manner provided in paragraph 18 answers the first question in the affirmative and the other questions in the negative, he shall be allowed to vote after he has been informed of the penalty for personation. The presiding officer shall make a note of the circumstances and of his decision on the list of challenged votes.

22. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt paper, and the latter shall, together with its counterfoil, be marked as cancelled.

23. A presiding officer, polling officer, or polling agent who is on duty at a polling station at which he is not entitled to vote shall, if he is certified by a Returning Officer to be entitled to vote at the election for the constituency in connection with which he is employed or for any other constituency, be allowed to record his vote at that polling station. The name of the polling station at which he would otherwise have been entitled to vote shall be entered in the counterfoil of the ballot paper, together with his number in the electoral roll for the constituency in which that polling station is situated.

24. Such ballot paper shall be placed in an envelope and sealed by the presiding officer and returned with the certificate referred to in paragraph 23 to the Returning Officer who has granted the same, and such Returning Officer shall cause such vote to be included among the other votes given for the candidate designated by the voter.

25. The presiding officer of each polling station, as soon as practicable after the close of the poll, shall, in the presence of any candidates or polling agents who may be present, make up into separate parcels and seal with his own seal and the seal of such candidates or agents as may desire to affix their seal:—

(1) each ballot box in use at each station unopened but with the key attached;

(2) the unused ballot papers;

(3) the tendered ballot papers;

(4) the spoilt ballot papers;

(5) the marked copy of the electoral roll;

(6) the counterfoils of the ballot papers;

(7) the tendered votes list; and

(8) the list of challenged votes;

and shall deliver such packets to the Returning Officer.

26. The packets shall be accompanied by a statement made by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, and ballot papers dealt with under paragraph 23.

Voting in the European Constituency.

27. The Returning Officer shall forward by registered posts to each elector the outerfoil of a ballot paper bearing on each side an official mark, at the same time noting on the corresponding counterfoil the number of the elector on the elector roll.

28. The elector shall mark a cross on the ballot paper against the name of the candidate or candidates for whom he intends to vote. He shall place the ballot paper in a closed envelope, and

return the closed envelope, together with a covering letter bearing his signature in a second cover, to the Returning Officer so that it shall reach the Returning Officer not later than the day fixed for the election.

29. On receipt of the papers from the elector the Returning Officer shall make a mark against the entry of the elector's name in the electoral roll to denote that the elector has returned a ballot paper, and shall place the closed envelope containing the ballot paper in a securely locked ballot box.

30. If a ballot paper is received purporting to come from a particular elector named on the electoral roll after another ballot paper has been received purporting to come from such elector, the closed envelope shall be endorsed by the Returning Officer with the name of the elector and his number on the electoral roll and set aside in a separate packet. The ballot paper contained in such closed envelope shall be treated as a tendered ballot paper and shall not be counted by the Returning Officer.

31. As soon as practicable after the close of the poll, the Returning Officer shall make up into separate packets and seal with his own seal—

(1) the ballot box unopened but with the key attached;

(2) the unused ballot papers;

(3) the tendered ballot papers;

(4) the marked copy of the electoral roll; and

(5) the counterfoils of the ballot papers.

32. The Returning Officer shall also prepare a statement showing the number of ballot papers provided by him and accounting for them under the heads of ballot papers in the ballot box, tendered ballot papers and ballot papers not returned.

33. Any ballot paper which is not duly marked or on which votes are given to more candidates than there are members to be elected or on which (or on the closed envelope containing which) any mark is made, except as provided in paragraph 28, by which the voter may afterwards be identified shall be invalid.

Counting of Votes.

34. The Returning Officer shall, as soon as may be practicable after the close of the poll, appoint a date, time and place for the counting of votes and shall give notice in writing thereof to all candidates and election agents.

35. (1) No person shall be allowed to be present at the counting of the votes except the Returning Officer and such persons as he may appoint to assist him in counting the votes, and such other persons as have a right to be present under sub-rule (6) of rule 15.

(2) No person shall be appointed to asisst in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

36. On the day and at the time appointed under paragraph 34, the Returning Officer shall, before he commences to count the votes, read the provisions of section 14 of the Indian Election Offences and Inquiries Act, 1920, to such persons as may be present, and shall then proceed as follows:—

(*a*) The ballot box or boxes shall be opened one after another, the boxes received from any one polling station being opened consecutively, and the Returning Officer shall take out the papers therefrom, count them or cause them to be counted, and record the number thereof in a statement. Such statement shall not be shewn to any candidate or agent.

(*b*) The Returning Officer shall then mix together all the ballot papers so taken out from the ballot boxes and distribute them in convenient bundles to the persons appointed to assist in counting the votes.

(*c*) When the ballot papers have been so distributed, but not before, the Returning Officer shall allow the candidate and their agents reasonable opportunity to inspect, without handling, the ballot papers, and shall on every ballot paper which is wholly or partially rejected endorse the word "rejected". If any candidate or agent present questions the correctness of the rejection, the Returning Officer shall also record on the ballot paper the grounds for the rejection. No candidate or agent shall be allowed to see the serial number on the back of any ballot paper.

(*d*) The Returning Officer shall, as far as practicable, proceed continuously with the counting of the votes; and shall, during any necessary intervals during which the counting has to be suspended, place the ballot papers, packets and other documents relating to the election under his own seal and the seals of such candidates or agents as may desire to affix them, and shall cause adequate precautions to be taken for their custody.

37. (1) A ballot paper shall be rejected—

(*a*) if it has not on its back the official mark,

(*b*) if the number of votes recorded thereon exceeds the number of vacancies to be filled,

(*c*) if no vote is recorded thereon,

(*d*) if it is void for uncertainty,

(*e*) if it bears any mark by which the elector can be identified.

(2) The decision of the Returning Officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition claiming the seat.

38. The Returning Officer shall not open the sealed packets of the tendered votes, the marked copy of the electoral roll or the counterfoils of the ballot papers. He shall verify the statement submitted by the presiding officer under paragraph 26 or prepared by himself under paragraph 32 as the case may be, by comparing it with the number of counted votes and rejected ballot papers, the unused ballot papers in his possession and the tendered votes list, and shall then reclose and reseal each packet which has been opened by him, and record on each packet a description of its contents and the date of the election to which it refers.

39. The Returning Officer shall then prepare and certify a return setting forth—

(1) the result of the verification referred to in paragraph 38,

(2) the names of the candidates for whom valid votes have been given,

(3) the number of valid votes given for each candidate,

(4) the name of the candidate elected,

(5) the number of votes declared invalid, and

(6) the number of tendered votes given,

and shall permit any candidate or any representative duly authorised under sub-rule (6) of rule 15 to take a copy or an extract from such return.

40. The Returning Officer shall, after reporting the result of the election under rule 15, forward the return and all the packets relating to the election in his possession to such officer as may be appointed by the Chief Commissioner in this behalf.

41. While in the custody of the officer to whom they have been so forwarded, the packets of ballot papers whether counted, rejected or tendered, and of the counterfoils thereof, shall not be opened and their contents shall not be inspected or produced except under the order of a competent Court or of Commissioners appointed to hold an inquiry in respect of an election, but all other documents relating to the election shall be opened to public inspection subject to such conditions and to the payment of such fee, if any, as the Chief Commissioner may impose.

42. The packets aforesaid shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary made by the Chief Commissioner, or by a competent Court or by Commissioners appointed to hold an inquiry in respect of an election.

FORM I.

FORM OF FRONT OF BALLOT PAPER.

Counterfoil.

Serial No.

Constituency

Number of polling station

Number of elector on electoral roll

Outerfoil.

Front.

Roy	
Chaudhuri	
Chatterji	
Bannerji	
Ghosh	

Back of Outerfoil.

Instructions.

(1) The number of members for whom you may vote is

(2) Place a cross mark thus × against the name of $\frac{\text{the candidate}}{\text{each of the candidate}}$

(3) The mark should be placed against not more than

Serial No.

FORM II.

TENDERED VOTES LIST.

Polling station .

Name of Constituency.	Name of Voter.	Number in Electoral Roll.	Number of votes recorded.

FORM III.

LIST OF CHALLENGED VOTES.

Signature Sheet No. .

Number on Electoral Roll.	Name.	Signature of voter if literate or thumb impression of voter if illeterate.	Name of identifier, if any.

Order of Presiding Officer (in each case).

SCHEDULE VI.

(See rule 20.)

1. The form of the return of election expenses referred to in rule 20 shall be as follows:—

FORM OF RETURN OF ELECTION EXPENSES.

For the constituency.

Receipts.	Rs.	Expenditure.	Rs	Voucher No.
Received of A. B., candidate for the above constituency. (Or when the candidate is his own election agent.) Paid by me, A. B., candidate for the above constituency. Received of .. (1) (2) (3) (4) etc., etc. Total Receipts ..		(A) THE PERSONAL EXPENDITURE OF THE CANDIDATE INCURRED OR PAID BY HIM OR BY HIS ELECTION AGENT ON HIS BEHALF INCLUDING TRAVELLING AND ALL OTHER PERSONAL EXPENSES INCURRED IN CONNECTION WITH HIS *CANDIDATURE;* Paid by me, C. D., as election agent. (Or when the candidate is his own election agent.) Paid by me, A. B., candidate as my own election agent. (1) On (2) On (3) On (4) On (1) Paid to on (2) Paid to on (3) Paid to on (4) Paid to on etc., etc.		
(Here set out the name and description of every person, whether the candidate or not, and of every club, society, or association, from whom any money, securities or equivalent of money was received in respect of expenses incurred on account of or in connection with or incidental to the above election. The amount received from each such person, club, society, etc., to be shown separately.)		*(Details of all expenditure incurred by or on behalf of the candidate whether in payment for personal services rendered, on account of hotel bills, for travelling whether by rail or in hired conveyance, or for the purchase of books or election literature, etc., must be shown, either in the account or in a separate list annexed to and referred to in the account.)* (B) THE NAME, AND THE RATE AND TOTAL AMOUNT OF THE PAY, OF EACH PERSON EMPLOYED AS AN AGENT (INCLUDING THE ELECTION AGENT), CLERK OR MESSENGER; Received by me, C. D., as election agent for A. B. (When the candidate is his own election agent the above item will be omitted.)		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		(1) Paid to as sub agent at (2) (3) (4) etc. (*The name and description of each sub-agent and any sum paid to him must be set out separately.*) (1) Paid to as polling agent at the polling station of (2) (3) (4) (1) Paid to as clerk for day's services. (2) (3) (4) (1) Paid to as messenger for day's service. (2) (3) (4) etc. (*The names and descriptions of every agent, clerk and messenger, and the sum paid to each, must be set out separately either in the account or in a separate list annexed to and referred to in the accounts with the receipted vouchers of the person employed.*) (C) THE TRAVELLING EXPENSES AND ANY OTHER EXPENSES INCURRED BY THE CANDIDATE OR HIS ELECTION AGENT ON ACCOUNT OF AGENTS (INCLUDING THE ELECTION AGENT), CLERKS OR MESSENGERS;		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		Received by me for travelling expenses as election agent. (1) On R (2) On R (3) On R		
		Total .		
		(If the candidate is his own election agent, leave out the above items.) (1) Paid to sub-agent of the polling district of as travelling expenses. (2) (3) (4) (*The name and description of every sub-agent or polling agent and the sum paid to each on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.*) (1) Paid to as clerk for travelling expenses. (2) (3) (4) (*The name and description of every clerk and the sum paid to him on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.*) (1) Paid to as messenger for travelling expenses. (2) (3) (4)		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		(*The name and description of every messenger and the sum paid to him on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.*)		
		(D) THE TRAVELLING EXPENSES OF PERSONS, WHETHER IN RECEIPT OF SALARY OR NOT INCURRED IN CONNECTION WITH THE CANDIDATURE, AND WHETHER PAID OR INCURRED BY THE CANDIDATE, HIS ELECTION AGENT OR THE PERSON SO TRAVELLING ; (*Under this head should be included any payments made by the candidate, or by the election agent on account of any person who travels in connection with the candidature other than persons whose travelling expenses have been shown in the statement under C above.*)		
		(E) THE COST WHETHER PAID OR INCURRED OF— (*i*) printing, (*ii*) advertising, (*iii*) stationery, (*iv*) Postage, (*v*) telegrams, and (*vi*) rooms hired later for public meetings or as committee rooms.		
		(*i*) Paid on account of *Printing*—		
		(1) To on		
		(2) To on		
		(3) To on		
		(4) To on		
		Total Printing ..		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		(*The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.*) (*ii*) Paid on account of *Advertising*— (1) To on (2) To on (3) To on (4) To on Total Advertising .. (*The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.*) (*ii*) Paid on account of *Stationery*— (1) To on (2) To on (3) To on (4) To on Total Stationery .. (*The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.*) (*iv*) Paid on account of *Postage.* (*Lump sum may be shewn.*) (*v*) Paid on account of *Telegrams.* (*Lump sum may be shewn.*)		

FORM OF RETURN OF ELECTION EXPENSES—*concld.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		(*vi*) Paid for the *hire of room.* (*A room hired for a public meeting or for a Committee room or for an office must be named or described so as to identify it, and the name and description of every person to whom any payment was made for each such room, together with the amount paid, must be set out separately either in the account or in a separate list annexed to and referred to in the account*). (F) ANY OTHER MISCELLANEOUS EXPENSES WHETHER PAID OR INCURRED. Paid to on to on (*The name and description of each person to whom any sum is paid, and the reason, for which it was paid to him, must be set out separately either in the account or in a separate list annexed to and referred to in the account.*) In addition to the above, I am aware as election agent for (C. D.), of the following disputed and unpaid claims, namely :— Disputed claims by for (*Here set out the name and description of each person whose claim is disputed, the amount of the claim and the goods work or other matter on the ground of which the claim is based.*) Unpaid claims by for (*Here state the name and description of each person to whom any such claim is due, and the amount of the claim and the goods, work and labour or other matter on account of which the claim is due.*)		

2. The form of the declarations referred to in rule 20 shall be as follows:—

Form of Declaration by Election Agent.

I, being the appointed election agent for a candidate for election in the constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, 's candidature.

Election Agent.

Solemnly affirmed before me.

Magistrate.

Form of Declaration by Candidate.

I, being a candidate for election in the constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

Candidate.

Solemnly affirmed before me.

Magistrate.

Special Form of Declaration by a Candidate under rule 20, sub-rule (3).

I, being a candidate for election in the constituency, do hereby solemnly affirm that the return of election expenses signed by my election agent is (with the exceptions noted below) true to the best of my knowledge and belief, and that (with the exceptions noted below) no expenses of any nature whatsoever other than the expenses therein set forth have to my knowledge or belief been incurred in or for the purposes of my candidature.

Particulars of Exceptions.

Candidate.

Solemnly affirmed before me.

Magistrate.

SCHEDULE VII.

(See rules 6, 8, 29 and 43.)

The following shall be deemed to be corrupt practices for the purposes of these rules:—

PART I.

Bribery.

1. A gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratifications to any person whomsoever, with the objects, directly or indirectly, of inducing—

(*a*) a person to stand or not to stand as, or to withdraw from being, a candidate, or

(*b*) an elector to vote or refrain from voting at an election, or as a reward to—

(*i*) a person for having so stood or not stood or for having withdrawn his candidature, or

(*ii*) an elector for having voted or refrained from voting.

Explanation.—For the purpose of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bonâ fide* incurred at or for the purposes of any election and duly entered in the return of election expenses prescribed by these rules.

Undue influence.

2. Any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person with the connivance of the candidate or his agent with the free exercise of any electoral right.

Explanation.—(1) Without prejudice to the generality of the provisions of this paragraph, any such person as is referred to herein who—

(*a*) threatens any candidate or voter or any person in whom a candidate or voter is interested, with injury of any kind; or

(*b*) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of this clause.

(2) A declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this paragraph.

Personation.

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person who has voted once at an election for a voting paper in his own name at the same election.

Publication of false statements.

4. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice the prospect of such candidate's election.

Authorisation of expenditure.

5. The incurring or authorising by a candidate or his agent of expenditure or the employment of any person by a candidate or his agent in contravention of the provisions of any notification of the Governor General in Council issued under rule 21.

PART II.

Acts under Part I.

1. Any act specified in Part I when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

Personation.

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name after he has already voted at such election.

Bribery.

3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(*a*) by a person to stand or not to stand as, or to withdraw from being, a candidate, or

(*b*) by any person whomsoever for himself or any other person for voting or refraining from voting or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

Payment for conveyance.

4. Any payment or promise of payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote.

Hiring and use of public conveyances.

5. The hiring, employment, borrowing or using for the purposes of the election of any boat, vehicle or animal usually kept for letting on hire or for the conveyance of passengers by hire:

Provided that any elector may hire any boat, vehicle or animal, or use any boat, vehicle or animal which is his own property, to convey himself to or from the place where the vote is recorded.

Incurring expense without authority.

6. The incurring or authorisation of expenses by any person other than a candidate or his election agent on account of holding any public meeting or upon any advertisement, circular or publica-

tion or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, unless he is authorised in writing so to do by the candidate.

Hiring of liquor shops.

7. The hiring, using or letting, as a committee-room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

Issue of circulars, etc., without printer's and publisher's name printed thereon.

8. The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof.

C. W. GWYNNE,

Offg. Joint Secretary to the Government of India.

HOME DEPARTMENT.

NOTIFICATION.

PUBLIC.

Delhi, the 3rd January 1924.

No. F.-248-III.—In exercise of the powers conferred by sections 45A and 129A of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules:—

Short title and commencement.

1. (*1*) These rules may be called the Coorg Devolution Rules.

(*2*) They shall come into force on a date to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different provisions of these rules.

Classification of subjects.

2. (*1*) For the purpose of distinguishing the functions of the local Government and the local legislature of the province of Coorg from the functions of the Governor General in Council and the Indian Legislature, subjects shall in that province be classified in relation to the functions of Government as central and provincial subjects in accordance with the lists set out in the Schedule to these rules:

Provided that every subject so classified as provincial shall be subject to legislation by the Indian legislature.

(*2*) Any matter which is included in the list of provincial subjects set out in Part II of the Schedule shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part.

Settlement of doubts.

3. Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject, the Governor General in Council shall decide whether the matter does or does not so relate, and his decision shall be final.

Employment of Indian Medical Service.

4. The local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council.

Allocation of revenue.

5. The following sources of revenue shall be allocated to the local Government as sources of provincial revenue, namely:—

(*a*) receipts accruing in respect of provincial subjects;

(*b*) payments made to the local Government by the Governor General in Council or by other local Governments, either for services rendered or otherwise;

(*c*) the proceeds of any taxes which may be lawfully imposed for provincial purposes; and

(*d*) any other sources which the Governor General in Council may by order declare to be sources of provincial revenue.

Payment of Government revenues into the public account.

6. All moneys derived from sources of provincial revenue shall be paid into the public account, of which the Governor General in Council is custodian, and credited to the Government of the province. The Governor General in Council shall have power, with the previous sanction of the Secretary of State in Council, to prescribe by general or special order the procedure to be followed in the payment of moneys into, and in the withdrawal, transfer and disbursement of moneys from, the public account, and for the custody of moneys standing in the account.

7. * * * * * *

Withdrawal of balances.

8. At any time when he considers this course to be essential in the financial interests of India as a whole, the Governor General in Council shall have power to require the local Government so to regulate its programme of expenditure as not to reduce the balance at its credit in the public account on a specified date or dates below a stated figure, and shall have power to take the necessary steps by the restriction of issues of moneys to secure this end. Subject to this power, the local Government shall be at liberty to draw on its balances, provided that notice of the amount which it proposes to draw during the ensuing financial year is given to the Governor General in Council before such date in each year as the Governor General in Council may by order fix.

Interest on provincial balances.

9. Whenever the Governor General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India and shall be calculated at the average rate at which the Governor General in Council has borrowed money in the open market during the year by the issue of treasury bills.

Advances by the Govern-

10. The Governor General in Council may at any time make to the local Government an advance from the revenues or moneys

accruing to the Governor General in Council on such terms as to interest and repayment as he may think fit. ment of India.

11. The payment of interest on advances made under rule 10 and the repayment of the principle of such advances shall be a charge on the annual allocated revenues of the local Government and shall have priority over all other charges. Priority of interest charges.

12. The Governor General in Council may employ the agency of the local Government in the administration of central subjects in so far as such agency may be found convenient. Agency employment of local Government.

13. The cost of an establishment employed by the local Government exclusively on the administration of central subject shall be a charge against all-India revenues. Cost of agency establishments.

14. If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment may be distributed in such manner as the Governor General in Council and the local Government may agree, or, in the case of disagreement, in such manner as may be determined by the Secretary of State in Council. Distribution of cost of joint establishment.

SCHEDULE.

(See Rule 2.)

Part I.—Central Subjects.

1. (*a*) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service or with any other force raised in India, other than military and armed police wholly maintained by the local Government.

(*b*) Naval and military works and cantonments.

2. External relations, including naturalisation and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

5. Communications to the extent described under the following heads, namely:—

(*a*) railways and extra-municipal tramways;

(*b*) aircraft and all matters connected therewith; and

(*c*) inland waterways, to an extent to be declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature.

6. Shipping and navigation on inland waterways in so far as declared to be a central subject in accordance with entry 5 (*c*).

7. Posts, telegraphs and telephones, including wireless installations.

8. Customs, cotton excise duties, income-tax, salt, and other sources of all-India revenues.

9. Currency and coinage.

10. Public debt of India.

11. Savings Banks.

12. The Indian Audit Department and excluded Audit Departments, as defined in rules framed under section 96-D (1) of the Act.

13. Civil law, including laws regarding status, property, civil rights and liabilities, and civil procedure.

14. Commerce, including banking and insurance.

15. Trading companies and other associations.

16. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature to be essential in the public interest.

17. Development of industries, in cases where such development by a central authority is declared by order of the Governor General in Council, made after consultation with the local Government, expedient in the public interest.

18. Control of cultivation and manufacture of opium, and sale of opium for export.

19. Stores and stationery, both imported and indigenous, required for Imperial Departments.

20. Control of petroleum and explosives.

21. Geological Survey.

22. Control of mineral development, in so far as such control is reserved to the Governor General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.

23. Botanical Survey.

24. Inventions and designs.

25. Copyright.

26. Emigration from, and immigration into, British India, and inter-provincial migration.

27. Criminal law, including criminal procedure.

28. Central police organisation.

29. Control of arms and ammunition.

30. Central agencies and institutions for research (including observatories), and for professional or technical training or promotion of special studies.

31. Ecclesiastical administration, including European cemeteries.

32. Survey of India.

33. Archæology.

34. Zoological Survey.

35. Meteorology.

36. Census and statistics.

37. All-India services.

38. Legislation in regard to any provincial subject, and any powers relating to such subject reserved by legislation to the Governor General in Council.

39. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.

40. Regulation of ceremonial titles, orders, precedence and civil uniform.

41. Immovable property acquired by, and maintained at the cost of, the Governor General in Council.

42. The Public Service Commission.

43. All matters expressly excepted by the provisions of Part II of this Schedule from inclusion among provincial subjects.

44. All other matters not included among provincial subjects under Part II of this Schedule.

Part II.—Provincial Subjects.

1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in a province for the purpose of local self-government, exclusive of matters arising under the Cantonments Act, 1910.

2. Medical administration, including hospitals, dispensaries, and asylums and provision for medical education.

3. Public health and sanitation and vital statistics.

4. Pilgrimages within British India.

5. Education.

6. Public works, other than those falling under entry 14 of this Part and included under the following heads, namely:—

(*a*) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (*1*) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (*1*) of that Act; provided that the Governor General in Council may, by notification in the "Gazette of India," remove any such monument from the operation of this exception;

(*b*) roads, bridges, ferries, tunnels, ropeways, and causeways and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor General in Council may prescribe; and

(*c*) tramways within municipal areas.

7. Water supplies, irrigation and canals, drainage and embankments, water storage and water power.

8. Land revenue administration as described, under the following heads, namely:—

(*a*) assessment and collection of land revenue;

(*b*) maintenance of land records, survey for revenue purposes, records-of-rights;

(*c*) laws regarding land tenures, relations of landlords and tenants, collection of rents;

(*d*) Courts of Wards, incumbered and attached estates;

(*e*) colonisation and disposal of Crown lands and alienation of land revenue; and

(*f*) management of Government estates.

9. Famine relief.

10. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests, and prevention of plant diseases.

11. Civil Veterinary Department, including provision for veterinary training improvement of stock and prevention of animal diseases.

12. Fisheries.

13. Co-operative Societies.

14. Forests, including preservation of game therein, and all buildings and works executed by the Forest Department.

15. Land acquisition.

16. Excise, that is to say, the control of production, manufacture, possession, transport, purchase, and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.

17. Administration of justice, including constitution, powers, maintenance and organisation of courts of civil and criminal jurisdiction within the province.

18. Judicial and Non-judicial stamps.

19. Registration of deeds and documents.

20. Registration of births, deaths and marriages.

21. Religious and charitable endowments.

22. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

23. Development of industries, including industrial research and technical education.

24. Industrial matters included under the following heads, namely:—

(*a*) factories;

(*b*) settlement of labour disputes;

(*c*) electricity;

(*d*) boilers;

(*e*) gas;

(*f*) smoke nuisances; and

(*g*) welfare of labour, including provident funds, industrial insurance (general health and accident) and housing.

25. Stores and stationery, subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.

26. Adulteration of foodstuffs and other articles.

27. Weights and measures.

28. Inland waterways, including shipping and navigation thereon so far as not declared by the Governor General in Council to be central subjects.

29. Police, including railway police; subject in the case of railway police to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor General in Council may determine.

30. The following miscellaneous matters, namely:—

(*a*) regulation of betting and gambling;

(*b*) prevention of cruelty to animals;

(*c*) protection of wild birds and animals;

(*d*) control of poisons;

(*e*) control of vehicles; and

(*f*) control of dramatic performances and cinematographs.

31. Control of newspapers, books and printing presses.

32. Coroners.

33. Criminal tribes.

34. European vagrancy.

35. Prisons, prisoners (except State prisoners) and reformatories.

36. Pounds and prevention of cattle trespass.

37. Treasure trove.

38. Libraries and museums and zoological gardens.

39. Provincial Government presses.

40. Elections for the provincial legislature; subject to rules framed under section 76 of the Government of India Act.

41. Regulation of medical and other professional qualifications and standards.

42. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

43. Control of public services within the province other than all-India services.

44. Taxes imposed by or under Provincial legislation.

45. Imposition by legislation of punishments by fine, penalty, or imprisonment for enforcing any law of the province relating to any provincial subject.

46. Any matter which, though falling within a central subject, is declared by the Governor General in Council to be of a merely local or private nature within the province.

47. * * * * * *

H. TONKINSON,
Joint Secretary to the Government of India.

HOME DEPARTMENT.

NOTIFICATION.

PUBLIC.

Delhi, the 28th January 1924.

No. F.-248—22.—In exercise of the powers conferred by sections 81A and 129A of the Government of India Act, the Governor General in Council with the sanction of the Secretary of State in Council is pleased to make the following rules:—

Short Title.

1. These rules may be called the Coorg Reservation of Bills Rules.

All Bills to be reserved.

2. All Bills which have been passed by the Legislative Council of the Chief Commissioner of Coorg shall be reserved by the Chief Commissioner for the consideration of the Governor General.

H. TONKINSON,
Joint Secretary to the Government of India.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 10.—In pursuance of sub-section (4) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the conduct of legislative business in the Coorg Legislative Council.

I.—PRELIMINARY.

Definitions.

1. In these rules—

"Act" means the Government of India Act;

"Council" means the legislative council of the Chief Commissioner of Coorg assembled for the conduct of legislative business;

"Gazette" means the Coorg District Gazette;

"Member" means a member of the Council;

"President" means the Chief Commissioner, or in his absence the Vice-President or other member required under sub-section (2) of section 78 of the Act to preside at a meeting of the Council during the conduct of legislative business; and

"Secretary" means the officer appointed by the Chief Commissioner to perform the duties of Secretary to the Council, and includes every person for the time being exercising the functions of the Secretary.

II.—MEETINGS OF THE COUNCIL.

Summoning the Council.

2. When it appears to the Chief Commissioner that a sitting of the Council is expedient he shall summon the Members by a notification published in the Gazette.

Hours of sitting.

3. The Council shall ordinarily meet at 11 A.M.

Members' places.

4. Members shall sit in such order as may be determined by the President from time to time.

Adjournments.

5. (1) When the business of a meeting is concluded, the President shall adjourn the meeting, and he may at any time, without debate or vote, adjourn any meeting or any business to any future day or to any hour of the same day.

(2) When any meeting is adjourned to a future day the Secretary shall send notice of the adjournment to each member who was not present at such meeting.

(3) When any meeting has been adjourned to a future day, the President may thereafter change such day to any other day, and

the Secretary shall send written notice of the change to each member.

Order of business.

6. The President shall regulate the order of business at meetings of the Council, and may at any time refer any particular matter coming properly under the consideration of the Council for the consideration of the Council. No business not entered in the list prepared by the Secretary under Rule 47 shall be transacted at any meeting without the permission of the President previously obtained and announced by him.

Preservation of order.

7. (1) The President shall preserve order and all points of order shall be decided by him.

(2) No discussion on any point of order shall be allowed unless the President shall think fit to take the opinion of the Council thereon.

(3) Any member may, at any time, submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decisions.

Members to speak standing from their places.

8. (1) Every member shall speak from his place, shall rise when he speaks, and shall address the President.

(2) At any time if the President rises, any member speaking shall immediately resume his seat.

On what business members may speak.

9. No member shall be heard except upon business then regularly before the Council, or, by permission of the President specially obtained, in explanation of what he had said in a previous debate.

Time limit for speeches. Members to speak once only, but mover to have right of reply.

10. (1) After the mover has spoken, other members may speak to a motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No member other than the mover and the Member in charge shall speak more than once to any motion except, with the permission of the President, for the purpose of making an explanation.

(3) No speech, except with the permission of the President, shall exceed 15 minutes in duration:

Provided that the mover of a motion when moving the same, and the Member in charge, may speak for 30 minutes.

Power of member to speak on an amendment.

11. A member who has spoken upon a motion may speak again upon any amendment thereof afterwards moved.

Power of President to close a discussion and to speak before putting the question.

12. When, in the opinion of the President, any motion and any amendment thereto have been sufficiently discussed, he may close the discussion by calling on the mover to reply and the Member in charge to submit any final observations which he may wish to make: Provided that the President may in all cases address the Council before putting the question to the vote.

Questions to be asked

13. When for the purpose of explanation during discussion, or for any other sufficient reason, any member has occasion to ask a

question of another member relating to the business of the Council, he shall ask the question through the President. through President.

14. Any member may, with the permission of the President, speak or read a speech in English at the request and on behalf of another member present at a meeting who is unable to express himself in English. Members who cannot speak English.

15. (1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes. Voting.

(2) Votes may be taken by voices or by division, and shall be taken by division if any member so desires.

(3) The President shall determine the method of taking votes by division.

16. Any member may ask for any papers or returns connected with any Bill before the Council. The President shall determine, either at the time or at the meeting of the Council next following, whether the papers or returns asked for shall be given. Papers and returns.

17. Communications on matters connected with any Bill before the Council may be addressed to the Chief Commissioner, or to the Secretary, and in either case shall be sent to the Secretary. Communications as to pending Bills.

18. The Secretary shall cause such communications to be printed and shall send a copy to each member, and shall refer them to any Select Committee sitting on the Bill to which they relate. Circulation of communications.

III.—Motions.

19. Any member who wishes to make an original motion, or to move an amendment of a Bill, shall either give notice of his intention at the next previous meeting, or send notice to the Secretary not less than five days before the day of the meeting at which he intends to introduce the motion. Notice of original motions and amendments.

20. (1) Notwithstanding anything contained in Rule 19, a non-official member who wishes to make a motion for leave to introduce a Bill shall send notice to the Secretary not less than two months before the day of the meeting at which he intends to make the motion and shall, together with the notice, submit a copy of the Bill and of the Statement of Objects and Reasons. Motions by non-official members for leave to introduce Bills.

(2) If the Bill is a Bill which under the Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Act, the question shall be referred to the authority which would have power to grant the sanction if it were necessary, and the decision of that authority on the question shall be final.

21. (1) Members who wish to move anything by way of amendment relating to business about to come before the Council may adopt either of the two courses prescribed in Rule 19. Notice of Amendments.

Procedure where no notice of amendment is given.

(2) If a member who has not adopted either of such courses desires to move anything by way of amendment without notice, the President may, in the exercise of his discretion, either permit the amendment to be put or withhold such permission or postpone the consideration thereof until the next meeting.

Bar of amendments having effect of a negative vote.

(3) Amendments having merely the effect of a negative vote shall not be moved.

Power of members to propose questions for determination.

22. (1) Subject to the provisions of the Act and to these rules, any member may, by motion, propose for the determination of the Council any original question, or any amendment of such question, relating to a Bill proposed for enactment or relating to the rules for the conduct of legislative business in the Council.

Procedure.

(2) Every motion, whether original or an amendment, shall be put into writing and delivered to the President, who, if he considers it to be in order, shall put the proposed question to the Council, after which it may be debated.

Withdrawal of motions.

23. (1) A member who has moved an original question or an amendment may withdraw the same, unless some member desires that it be put to the vote.

Procedure where motion debated and not withdrawn.

(2) If a question is debated and not withdrawn, the President shall again read it before taking the sense of the Council thereon.

Procedure of President when amendment moved.

24. (1) When an amendment upon any motion is moved, or when two or more such amendments are moved, the President, before taking the sense of the Council thereon, shall read the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be in the discretion of the President to put first to the vote either the original motion or any of the amendments which may have been brought forward.

Power of President to divide motion.

25. If any motion, as made, involves many points, the President, at his discretion, may divide it, so that each point may be determined separately.

Withdrawal of Bill.

26. (1) At any time during the progress of a Bill the Member in charge may move that it be withdrawn.

(2) If such motion be carried, the Bill shall be withdrawn accordingly.

IV.—Introduction and Publication of Bills.

Printing of Bills.

27. The Secretary shall then cause the Bill, together with the Statement of Objects and Reasons, to be printed and shall send a copy to each member:

Provided that a Bill, with all connected papers, may, by special order of the President, be printed in anticipation of the carrying of a motion for leave to introduce the same.

28. (1) The Council may, at any time after leave to introduce a Bill has been granted, direct that the Bill be published in such manner as the Council thinks fit. Publication of Bills.

(2) If any member is unacquainted with English, the Secretary shall cause the Bill and the Statement of Objects and Reasons to be translated for the use of such member into such language as the President may direct.

29. When a Bill is introduced, or on some subsequent occasion, the Member in charge of it shall make one or more of the following motions:— Introduction of Bills.

(*a*) that the Bill be referred to a Select Committee, or

(*b*) that it be taken into consideration by the Council either at once or at some future day, to be then mentioned, or

(*c*) that it be circulated for the purpose of eliciting opinion thereon.

30. (1) No motion referred to in Rule 29 shall be made until after a copy of the Bill and a copy of the Statement of Objects and Reasons have been furnished to each member. Circulation of Bill and Statement before making any such motion.

(2) Any member may object to such motion being made unless such copies have been furnished to him at least seven days previously; and such objection shall prevail unless the President, in exercise of his discretion, allows the motion to be made.

31. On the day on which any motion referred to in Rule 29 is made, or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed. Discussion of principle and general provisions of Bill.

32. When any motion mentioned in Rule 29 has been carried, the Bill, together with a Statement of Objects and Reasons, shall, unless it has been previously published by order of the Chief Commissioner under Rule 33 and has not been materially altered since the date of such publication, be published in the Gazette in English, and also, unless the Council otherwise directs, in the Vernacular. Gazetting.

33. A Bill at any time be sent to the Secretary to be printed and circulated. The Chief Commissioner, if he sees fit, may order that such Bill be published in the Gazette, together with the Statement of Objects and Reasons. Further publication by order.

V.—Select Committees.

34. The Legal Remembrancer, if he is a Member of the Council, shall be a member of every Select Committee. Composition of Committees.

35. (1) The members of every Select Committee shall be named by the Council when the Bill is referred or at some subsequent meeting. Nomination of members.

(2) The Member in charge of the Bill shall be Chairman of the Committee and, in the case of an equality of votes, shall have a second or casting vote. Chairman's casting vote.

Report of the Select Committee.

36. (1) The Select Committee shall, unless ordered to report sooner, make a report upon the Bill referred as soon as possible after the close of two months from the date of its publication in the Gazette. Such report may be either preliminary or final.

(2) The Select Committee shall in their report state—

(1) whether the publication ordered by these rules or by the Council, has taken place, and the date on which it has taken place; and

(2) whether the Bill has been so altered as to require republication.

Circulation of Select Committee's report.

37. The Secretary shall cause every report of a Select Committee to be printed and circulated to each member, and shall also, if the President so directs, cause the report with the amended Bill to be published in the Gazette.

Presentation of the report of the Select Committee.

38. The report of the Select Committee on a Bill shall be presented to the Council by the Member in charge of the Bill, and shall be taken into consideration by the Council as soon as conveniently may be, but any member may object to its being so taken into consideration if he has not been furnished, one week beforehand, with a copy of the report, and such objection shall prevail unless the President, in exercise of his power to suspend any of these rules, allows the report to be taken into consideration.

Form in which clauses of Bill to be considered.

39. (1) When the report is taken into consideration, it may be moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee; and, if the motion is affirmed, the clauses shall be so considered.

(2) If no such motion be made and affirmed, the clauses shall be considered for settlement as they stood when the Bill was introduced.

VI.—Consideration and Amendment of Bills.

Proposal of amendment.

40. When a Bill is taken into consideration by the Council, any member, subject to the provisions of rules 21 to 25, may propose an amendment of such Bill:

Provided that the provisions of sub-rule (2) and sub-rule (3) of Rule 20 shall apply in the case of such amendment in like manner as they apply in the case of a Bill.

Order of amendments.

41. Amendments shall ordinarily be considered in the order of the clauses to which they respectively relate.

Submission of Bill clause by clause.

42. (1) Notwithstanding anything in the preceding rules, it shall be in the discretion of the President, when a motion that a Bill be taken into consideration has been carried, to submit the Bill, or any part of the Bill, to the Council, clause by clause.

(2) When the procedure mentioned in sub-rule (1) is adopted, the President shall call each clause separately and, when the amendment relating to it has been dealt with, shall put the question " that this

clause, or (as the case may be) this clause as amended, stand part of the Bill."

Republication or recommitment of amended Bill.

43. (1) Any member may move that a Bill which has been amended by the Council or by a Select Committee be republished or be recommitted to the Select Committee either—

(*a*) without limitation, or

(*b*) with respect to particular clauses or amendments only, or

(*c*) with instructions to the Select Committee to make some particular or additional provision in the Bill.

(2) If such motion is carried, the President shall order that the Bill be republished or recommitted as the case may be.

Passing of Bills.

44. (1) If no amendment be made when a Bill is taken into consideration by the Council the Bill may at once be passed.

(2) If any amendment be made, any member may object to the passing of the Bill at the same meeting; and such objection shall prevail unless the President, in exercise of his discretion, allows the Bill to pass.

(3) Where the objection prevails, the Bill shall be brought forward again at a future meeting and may then be passed with or without further amendment.

VII.—Passing of Bills and Publication of Act.

Revision of marginal notes and submission of Bill to Chief Commissioner.

45. When a Bill is passed by the Council, the Secretary shall revise and complete the marginal notes thereof, and shall submit it to the Chief Commissioner for action in accordance with the provisions of section 81A of the Act.

Publication of Act.

46. When the Governor-General has signified his assent, the Bill shall be published as soon as possible in the Gazette under the signature of the Secretary as an Act of the Legislative Council of the Chief Commissioner, which has received the assent of the Governor-General and has the force of law.

VIII.—Duties of Secretary.

List of business.

47. Ordinarily there shall be prepared by the Secretary a list of the matters to be taken into consideration at each meeting of the Council, and a copy thereof shall be despatched by him to each member three days before the day of meeting to such address as may be notified by the member to the Secretary.

Proceedings of the Council.

48. (1) The Secretary shall cause to be prepared a full report of the proceedings of the Council at each of its meeting and shall as soon as practicable publish it in such form and manner as the President may direct.

(2) One copy of the report shall be submitted to the President for his confirmation and signature, and when signed by him shall constitute the authentic record of the proceedings of the Council.

(3) The Secretary shall send one copy of such report to each member of the Council, to the Secretary to the Government of India in the Legislative Department and to the Permanent Under-Secretary of State for India.

Other duties.

49. In addition to the other duties specially provided for by these rules, it shall be the duty of the Secretary—

(1) to take charge of all records of the Council;

(2) to keep the books of the Council;

(3) to keep a list of the business for the time being before the Council;

(4) to superintend the printing of all papers ordered to be printed;

(5) to make out from time to time a list of all Select Committees' sittings;

(6) to assist the Council and all Committees in such manner as they may order;

(7) to write all letters ordered by the Council, or by any Committee thereof, to be written.

IX.—Miscellaneous.

Admission of strangers.

50. (1) Strangers shall not be admitted into the Council Chamber during the sittings of the Council save on the production of orders of admission.

(2) Application for orders of admission shall be made to the Secretary.

Withdrawal of strangers.

51. The President, whether on the application of any member or otherwise, may direct at any time during a sitting of the Council that strangers withdraw.

Sale of papers.

52. Any paper relating to any measure before the Council may be published by order of the President. Copies of papers so published shall be sold at such rates as may be fixed by the Secretary.

Dropped Bills.

53. Any Bill respecting which no motion has been made in the Council for two years may, by order of the President, be removed from the list of business.

Suspension of rules.

54. The President, for sufficient reason, may suspend any of the foregoing rules.

Finality of decisions.

55. The decision of the President on any question that may arise as to the intention, construction or application of these rules shall be final.

A. N. L. CATER,

Secretary to the Chief Commissioner.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 11.—In exercise of the powers conferred on him by sub-section (3) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the discussion, at a meeting of the Coorg Legislative Council, of the annual financial statement of the local Government and for the appointment of a member of the council to preside at such discussion in the place of the Chief Commissioner and of the Vice-President.

1. In these rules— Definitions.

(1) " Budget " means the Draft Financial Statement as revised by the local Government after the proposals of the Finance Committee have been considered;

(2) " Draft Financial Statement " means the preliminary financial proposals of the local Government for the financial year next following;

(3) " Finance Committee " means the Committee of the Council appointed under Rules 2 and 3 to consider and revise the Draft Financial Statement;

(4) " Finance Member " means the Commissioner of Coorg;

(5) " Member in charge " with regard to any subject under discussion means the Commissioner of Coorg or the Member of the Council appointed by the Chief Commissioner to perform the functions of the Member in charge under these rules in respect of the business of the Department of the local Government to which the subject under discussion belongs;

(6) " President " means—

(*a*) the Chief Commissioner, or

(*b*) the Vice-President appointed by the Chief Commissioner under sub-section (1) of section 78 of the Government of India Act, or

(*c*) the Member appointed to preside under rule 37;

(7) " Secretary " means the Secretary to the Council and includes any person for the time being exercising the functions of the Secretary.

The Draft Financial Statement.

2. On a day not later than the 5th day of January in each year, a Finance Committee shall be constituted for the purpose of dis-

cussing the Draft Financial Statement and making proposals with reference thereto for the consideration of the local Government.

3. (1) The Finance Committee shall consist of a Chairman and of such number of other members, not exceeding five, as the Chief Commissioner may direct, of whom not more than half shall be nominated by the Chief Commissioner.

(2) The remaining members of the Committee shall be elected by the non-official Members of the Council by votes given under such procedure as the Chief Commissioner may prescribe by notification in the *Coorg District Gazette*.

4. The Finance Member shall be the Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

5. (1) On a day not later than the 18th day of January in each year, the local Government shall refer the Draft Financial Statement to the Finance Committee.

(2) The draft shall comprise tabular statements showing—

(*a*) the opening balance of the Provincial account;

(*b*) the estimated Provincial revenue under the various major heads of account;

(*c*) the estimated Provincial expenditure, under specific major heads, on existing establishments and schemes and on new schemes the cost of which is not considerable or which the local Government considers to be of an absolutely obligatory character;

(*d*) the amounts available for maximum recurring expenditure and for total expenditure upon other new schemes, the latter being provisionally included under a head " Unallotted Expenditure "; and

(*e*) the estimated closing balance which shall not be less than Rs. 50,000.

(3) There shall be appended to the Draft Financial Statement a memorandum indicating as fully as possible the manner in which the local Government provisionally proposes to allot the sum available for total expenditure on new schemes referred to in clause (*d*) of sub-rule (2), and also indicating, if thought desirable, alternative methods of distributing this expenditure. In respect of each suggestion thus made, the maximum recurring expenditure, and the total expenditure, (*a*) recurring, and (*b*) non-recurring, which it is proposed to incur in the next financial year, shall be separately stated.

6. (1) The Finance Committee shall consider how the provision made under the head " Unallotted Expenditure " referred to in clause (*d*) of sub-rule (2) of Rule 5 shall be distributed among the specific major heads, and to what purposes the sums thus allotted should be applied:

Provided that—

(*i*) the total provision for recurring and non-recurring expenditure on the new schemes shall not exceed the amount entered in the Draft Financial Statement as available for these purposes; and

(*ii*) the limit of recurring expenditure shall be determined with reference to the maximum amount which a scheme will eventually involve, any difference between this figure and the recurring expenditure required to be provided in the Draft Financial Statement under discussion being made up by addition to non-recurring expenditure.

(2) It shall also consider the estimates of revenue and expenditure referred to in clauses (*b*) and (*c*) of sub-rule (2) of rule 5 and recommend such amendments in them as seem to it to be advisable:

Provided that any recommendation likely to reduce the estimated closing balance referred in clause (*e*) of sub-rule (2) of Rule 5 shall be accompanied by proposals for a counterbalancing increase in revenue or reduction in expenditure referred to in clause (*c*) or (*d*) of that sub-rule. Such proposals should indicate the precise item or items in the draft financial statement which should be increased or reduced.

7. (1) The proceedings of the Committee shall be private and informal.

(2) They shall begin not later than the 20th day of January and be completed not later than the 27th day of the same month.

(3) Free discussion shall be allowed but the Chairman may at his discretion close discussion upon any particular item when he thinks that it cannot be continued with advantage.

(4) Where the question of making any particular provision in the estimates coming within the scope of the Committee's functions is in dispute, the Member in charge shall be heard in its support, and the Committee shall then proceed to vote, the decision being by majority of votes.

8. The Finance Committee shall submit to the local Government not later than the 28th day of January a report indicating the changes which it recommends in the Draft Financial Statement.

9. After considering the proposals of the Committee, the local Government shall embody its own conclusions in the Draft Financial Statement.

The Budget.

10. (1) The budget shall comprise a memorandum by the Finance Member explaining the general financial situation of the province in the current and ensuing years, together with memoranda explaining the estimates of revenue and expenditure under the various major heads, or groups of major heads.

(2) Copies of the Budget shall be supplied to Members of Council not later than the 5th day of March.

11. (1) The general discussion of the Budget in Council shall take place on such date subsequent to the date on which copies have been supplied under sub-rule (2) of Rule 10 as may be appointed by the Chief Commissioner in this behalf.

(2) At such discussion any member shall be at liberty to offer any observations he may wish to make on the Budget, but no member shall be permitted to move any resolution in regard thereto nor shall any question be submitted to the vote of the Council.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches.

(4) The discussion shall be limited to those branches of revenue and expenditure which relate to provincial subjects.

(5) The Finance Member shall have a right of reply at the end of the general discussion.

12. (1) On the day following that on which the general discussion has been held and for such time as the Chief Commissioner may, subject to the provisions of Rule 30, allot for this purpose, the heads or groups of heads in the Budget shall be open to discussion and shall be considered separately according to such grouping as the Member in charge may determine.

(2) The consideration of such heads or group of heads shall be introduced by the Member in charge with such explanations, supplementing the information contained in the Budget, as may appear to him to be necessary.

(3) Any member shall then be at liberty to move any resolution, relating to any question covered by any such head or group of heads, which may be entered in his name in the List of Business, and the Council shall thereupon proceed to discuss every such resolution in the manner hereinafter prescribed.

13. (1) No discussion shall be permitted in regard to any of the following subjects, namely:—

(*a*) any contribution payable by the local Government to the Governor-General in Council;

(*b*) interest and sinking fund charges on loans;

(*c*) expenditure of which the amount is prescribed by or under any law;

(*d*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council;

(*e*) salaries of the Chief Commissioner and the Judicial Commissioner;

(*f*) any matter affecting the relations of His Majesty's Government or of the Government of India with any Foreign State;

(*g*) any matter affecting the relations of the authorities mentioned in clause (*f*) or of the Chief Commissioner with any Prince or Chief under the suzerainty of His Majesty or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(*h*) any matter under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions.

(2) If any question arises regarding the application of the provisions of sub-rule (1), the President shall decide the same and his decision shall be final.

14. No resolution shall be moved which does not comply with the following conditions, namely:—

(*a*) it shall be in the form of a specific recommendation addressed to the Chief Commissioner;

(*b*) it shall be clearly and precisely expressed and shall raise a definite issue;

(*c*) it shall not contain arguments, inferences, ironical expressions, or defamatory statements, nor shall it refer to the conduct or character of any person except in his official or public capacity;

(*d*) it shall not challenge the accuracy of the figures of the Budget;

(*e*) it shall be directly relevant to some entry in the Budget;

(*f*) it shall not criticise any decision of the Government of India in respect of provincial finance; and

(*g*) if it would in itself have the effect of causing the total expenditure of the province to exceed the amount entered in the Budget, it must propose some counterbalancing reduction in the estimates so as to avoid such excess.

15. A member, who wishes to move a resolution, shall give previous notice in writing to the Secretary, and he shall at the same time submit a copy of the resolution which he wishes to move:

Provided that the President may fix a date after which no such notice shall be received.

16. The President shall decide on the admissibility of a resolution and his decision shall be final. He may disallow any resolution or part of a resolution without giving any reason therefor other than that, in his opinion, it cannot be moved consistently with the public interests, or that it should be moved in the Indian Legislature.

17. (1) No discussion in Council shall be permitted in respect of any order of the President under Rule 16.

(2) A resolution that has been disallowed shall not be entered in the proceedings of the Council.

18. Resolutions admitted by the President shall be entered in the List of Business in such order as he may direct.

Discussion of Resolutions.

19. (1) After the mover of a resolution has spoken, other members may speak to the motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No member, other than the mover and the Member in charge shall speak more than once to any motion except, with the permission of the President, for the purpose of making an explanation.

20. No speech, except with the permission of the President, shall exceed fifteen minutes in duration:

Provided that the mover of a resolution, when moving the same, and the Member in charge, may speak for thirty minutes.

21. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

22. A member who has moved a resolution may withdraw the same unless some member desires that it be put to the vote.

23. (1) A member in whose name a resolution appears on the List of Business shall, when called on, either—

(*a*) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect; or

(*b*) move the resolution.

(2) If the member when called on is absent, the resolution standing in his name shall be considered to have been withdrawn.

24. When, in the opinion of the President, a resolution has been sufficiently discussed, he may close the discussion by calling upon the mover to reply and the Member in charge to submit any final observations which he may wish to make:

Provided that the President may in all cases address the Council before putting the question to the vote.

25. If any resolution involves many points, the President at his discretion may divide it, so that each point may be determined separately.

26. (1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes.

(2) Votes may be taken by voices or by division and shall be taken by division if any member so desires.

(2) The President shall determine the method of taking votes by division.

27. (1) The President may assign such time as with due regard to the public interests he may consider reasonable for the discussion of resolutions or of any particular resolution.

(2) Every resolution which has not been put to the vote within the time so assigned shall be deemed to have been withdrawn.

28. Every resolution, if carried, shall have effect only as a recommendation to the Chief Commissioner.

29. When a question has been discussed at a meeting of the Council, or when a resolution has been disallowed under Rule 16 or withdrawn under Rule 23, no resolution raising substantially the same question shall be moved within one year.

30. The discussion of the Budget shall be closed not later than the 16th day of March, or, if the discussion commences before the 12th day of March, then on the fourth day of the discussion.

31. (1) A printed or type-written copy of the Budget as finally passed by the local Government shall thereafter be communicated to each Member of Council together with a note describing the changes that have been made in the figures originally supplied to the Council and explaining why any resolutions, passed in Council, have not been accepted.

(2) A copy of the Budget as finally passed shall also be submitted to the Governor-General in Council for information.

General.

32. (1) Every member shall speak from his place, shall rise when he speaks and shall address the Chair.

(2) At any time, if the President rises, any member speaking shall immediately resume his seat.

33. (1) Any member may send his speech in print or type-written to the Secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are members, and the Secretary shall cause one of such copies to be supplied to every member.

(2) Any such speech may, at the discretion of the President, be taken as read.

34. (1) The President shall preserve order, and all points of order shall be decided by him and his decision thereon shall be final.

(2) No discussion on any point of order shall be allowed unless the President thinks fit to take the opinion of the Council thereon.

(3) Any member may at any time submit a point of order for the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decision, and may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the session and the member so directed shall absent himself accordingly.

35. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the province, provided that

the President may call on any member to speak in any language in which he is known to the proficient.

36. A member while speaking shall not—

(*i*) refer to any matter on which a judicial decision is pending;

(*ii*) make a personal charge against a member;

(*iii*) use offensive expressions regarding the conduct or proceedings of the Indian Legislature or of any local legislature;

(*iv*) reflect upon the conduct of His Majesty or of the Ruler of any Foreign State or of the Governor-General or of any Governor or other head of a local Administration or of any Court of Justice;

(*v*) utter treasonable, seditious, or defamatory words; or

(*vi*) use his right of speech for the purpose of obstructing the business of the Council.

37. The Chief Commissioner may appoint a member of the Council to preside in his place or in that of the Vice-President, on any occasion on which the Budget or any portion thereof is discussed in the Council.

38. The President, for sufficient reason, may suspend any of the foregoing rules.

39. In and for the year 1924 the Chief Commissioner may direct that any matter or thing which is required by these rules to be done, begun or completed not later than a specified date may, notwithstanding such requirement, be done, begun or completed on a date later than such specified date but not later than a date to be appointed by him in this behalf.

A. N. L. CATER,

Secretary to the Chief Commissioner.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 12.—In exercise of the powers conferred on him by sub-section (3) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the discussion, at a meeting of the Coorg Legislative Council, of matters of general public interest and for the appointment of a member of the Council to preside at any such discussion in the place of the Chief Commissioner and of the Vice-President.

Definitions.

1. In these rules—

(1) " President " means—

(*a*) the Chief Commissioner, or

(*b*) the Vice-President appointed by the Chief Commissioner under sub-section (1) of section 78 of the Government of India Act, or

(*c*) the member appointed to preside under rule 31;

(2) " Member in charge " with regard to any subject under discussion means the Commissioner of Coorg, or the Member of the Council appointed by the Chief Commissioner to perform the functions of the Member in charge under these rules in respect of the business of the Department of the local Government to which the subject under discussion belongs;

(3) " Secretary " means the officer appointed by the Chief Commissioner to perform the duties of the Secretary to the Council, and includes any person for the time being exercising the functions of the Secretary;

(4) " Session " means the period from the time appointed by the Chief Commissioner for the commencement of a session under sub-section (1) of section 78 of the Government of India Act to the time when the Council is prorogued.

Matters open to discussion.

2. (1) Any matter of general public interest may be discussed in Council provided that no discussion shall be permitted in regard to—

(*a*) any contribution payable by the local Government to the Governor-General in Council;

(*b*) interest and sinking fund charges on loans;

(*c*) expenditure of which the amount is prescribed by or under any law;

(*d*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council;

(*e*) salaries of the Chief Commissioner and the Judicial Commissioner;

(*f*) any matter affecting the relations of His Majesty's Government or of the Government of India with any Foreign State;

(*g*) any matter affecting the relations of the authorities mentioned in clause (*f*) or of the Chief Commissioner with any Prince or Chief under the suzerainty of His Majesty or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(*h*) any matter under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions.

(2) If any doubt arises as to whether any question is or is not within the restrictions imposed by the proviso to sub-rule (1) the Chief Commissioner shall decide the point and his decision shall be final.

Resolutions.

3. Subject to the restrictions contained in the proviso to sub-rule (1) of rule 2, any member may move a resolution relating to a matter of general public interest:

Provided that no resolution shall be moved which does not comply with the following conditions, namely:—

(*a*) it shall be in the form of a specific recommendation addressed to the Chief Commissioner;

(*b*) it shall be clearly and precisely expressed and shall raise a definite issue;

(*c*) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity.

4. A member who wishes to move a resolution shall give notice in writing to the Secretary at least fifteen clear days before the meeting of the Council at which he desires to move the same, and shall, together with the notice submit a copy of the resolution which he wishes to move:

Provided that the President may allow a resolution to be moved with shorter notice than fifteen days, and may, in any case, require longer notice, or may extend the time for moving the resolution.

5. (1) The Secretary shall submit every resolution of which notice has been given to him in accordance with Rule 4 to the President, who may either admit it or, when any resolution is not framed in accordance with Rule 3, cause it to be returned to the member concerned for the purpose of amendment.

(2) If the member does not, within such time as the President may fix in this behalf, resubmit the resolution duly amended, the resolution shall be deemed to have been withdrawn.

6. The President shall decide on the admissibility of a resolution and his decision shall be final. He may disallow any resolution or part of a resolution without giving any reason therefor other than that in his opinion it cannot be moved consistently with public interests or that it should be moved in another Legislative Council or in the Indian Legislature.

7. (1) No discussion in Council shall be permitted in respect of any order of the President under Rule 5 or Rule 6.

(2) A resolution that has been disallowed shall not be entered in the proceedings of the Council.

8. Resolutions admitted by the President shall be entered in the List of Business for the day in the order in which they are received by the Secretary:

Provided that the President may give priority to any resolution which he may consider to be of urgent public interest, or postpone the moving of any resolution.

Discussion of Resolutions.

9. No resolution shall be taken into consideration by the Council unless it is seconded.

10. The discussion of resolutions shall take place after all the other business of the day has been concluded.

11. (1) After the mover of a resolution has spoken, other members may speak to the motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No member other than the mover and the member in charge shall speak more than once to any motion except, with the permission of the President, for the purpose of making an explanation.

12. No speech, except with the permission of the President, shall exceed fifteen minutes in duration:

Provided that the mover of a resolution, when moving the same, and the Member in charge, may speak for thirty minutes.

13. (1) Every member shall speak from his place, shall rise when he speaks, and shall address the Chair.

(2) At any time, if the President rises, any member speaking shall immediately resume his seat.

14. Any member may send his speech in print or type-written to the Secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are members, and the Secretary shall cause one of such copies to be supplied to each member.

15. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

16. When a resolution is under discussion, any member may, subject to all the conditions and restrictions relating to resolutions specified in Rules 2 and 3, move an amendment to such resolution:

Provided that an amendment may not be moved which has merely the effect of a negative vote:

Provided further that no amendment shall be taken into consideration by the Council unless it is seconded.

17. (1) If a copy of such amendment has not been sent to the Secretary at least three clear days before the day fixed for the discussion of the resolution, any member may object to the moving of the amendment; and such objection shall prevail unless the

President, in exercise of his power to suspend any of these rules, allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every amendment to be printed or type-written and shall send a copy for the information of each member.

18. A member who has moved a resolution or an amendment of a resolution may withdraw the same unless some member desires that it be put to the vote.

19. (1) A member in whose name a resolution appears on the List of Business shall, when called on, either—

(*a*) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect; or

(*b*) move the resolution.

(2) If the member when called on is absent, the resolution standing in his name shall be considered to have been withdrawn.

20. A resolution of which notice has been given by a non-official member and which has been admitted, if it is not moved during the session, shall be deemed to have been withdrawn.

21. When, in the opinion of the President, a resolution and any amendment thereto have been sufficiently discussed, he may close the discussion by calling upon the mover to reply and the Member in charge to submit any final observations which he may wish to make:

Provided that the President may in all cases address the Council before putting the question to the vote.

22. (1) When an amendment to any resolution is moved, or when two or more such amendments are moved, the President shall, before taking the sense of the Council thereon, state or read to the Council the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be in the discretion of the President to put first to the vote either the original motion or any of the amendments which may have been brought forward.

23. If any resolution involves many points, the President at his discretion may divide it, so that each point may be determined separately.

24. (1) Every question shall be resolved in the affirmative or negative according to the majority of votes.

(2) Votes may be taken by voices or by division, and shall be taken by division if any member so desires.

(3) The President shall determine the method of taking votes by division.

General.

25. The President may assign such time as, with due regard to the public interest, he may consider reasonable for the discussion of

resolutions or of any particular resolution; every resolution which shall not have been put to the vote within the time so assigned shall be considered to have been withdrawn.

26. Every resolution, if carried, shall have effect only as a recommendation to the Chief Commissioner.

27. When a question has been discussed at a meeting of the Council or when a resolution has been disallowed under Rule 6 or withdrawn under Rule 18, no resolution or amendment raising substantially the same question shall be moved within one year.

28. (1) The President shall preserve order and all points of order shall be decided by him and his decision thereon shall be final.

(2) No discussion on any point of order shall be allowed unless the President shall think fit to take the opinion of the Council thereon.

(3) Any member may at any time submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decision and may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the session and the member so directed shall absent himself accordingly.

29. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the province, provided that the President may call on any member to speak in any language in which he is known to be proficient.

30. A member while speaking shall not—

(*i*) refer to any matter on which a judicial decision is pending;

(*ii*) make a personal charge against a member;

(*iii*) use offensive expressions regarding the conduct or proceedings of the Indian Legislature or of any local legislature;

(*iv*) reflect upon the conduct of His Majesty or of the Ruler of any Foreign State or of the Governor-General or of any Governor or other head of a local Administration or of any Court of Justice;

(*v*) utter treasonable, seditious, or defamatory words; or

(*vi*) use his right of speech for the purpose of obstructing the business of the Council.

31. The Chief Commissioner may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on

any occasion on which a matter of general public interest is discussed in the Council.

32. The President, for sufficient reason, may suspend any of the foregoing rules.

A. N. L. CATER,

Secretary to the Chief Commissioner.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 13.—In exercise of the powers conferred on him by sub-section (3) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the asking of questions, at a meeting of the Coorg Legislative Council, and for the appointment of a member of the Council to preside when questions are asked in the place of the Chief Commissioner and of the Vice-President.

1. In these rules—

(1) " President " means—

(*a*) the Chief Commissioner, or

(*b*) the Vice-President appointed by the Chief Commissioner under sub-section (1) of section 78 of the Government of India Act, or

(*c*) the member appointed to preside under rule 20;

(2) " Member in charge " with regard to any question means the Commissioner of Coorg or the member of the Council appointed by the Chief Commissioner to perform the functions of the Member in charge under these rules in respect of the business of the Department of the local Government to which the subject of such question belongs;

(3) " Secretary " means the officer appointed by the Chief Commissioner to perform the duties of the Secretary to the Council, and includes any person for the time being exercising the functions of the Secretary.

2. Any question may be asked by any member subject to the following conditions and restrictions.

3. (1) No question shall be permitted in regard to any of the following subjects, namely:—

(*a*) any matter affecting the relations of His Majesty's Government or of the Government of India with any Foreign State;

(*b*) any matter affecting the relations of the foregoing authorities or of the Chief Commissioner with any Prince or Chief under the suzerainty of His Majesty or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(*c*) any matter under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions.

(2) If any doubt arises whether any question is or is not within the restrictions imposed by sub-rule (1), the Chief Commissioner shall decide the point and his decision shall be final.

4. No question shall be asked unless it complies with the following conditions, namely:—

(1) it shall be so framed as to be merely a request for information;

(2) it must not publish any name or statement not strictly necessary to make the question intelligible;

(3) if a question contains a statement, the member asking it must make himself responsible for the accuracy of the statement;

(4) it must not contain arguments, inferences, ironical expressions or defamatory statements;

(5) it must not ask for an expression of opinion or the solution of an abstract legal question or of a hypothetical proposition;

(6) it may not be asked as to the character or conduct of any person except in his official or public capacity;

(7) it must not be of excessive length; and

(8) it must not repeat a question already fully answered.

5. In matters which are or have been the subject of controversy between the Governor-General in Council and the local Government, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact.

6. A member who wishes to ask a question, shall give notice in writing to the Secretary at least ten clear days before the meeting of the Council at which he desires to put the question and shall, together with the notice, submit a copy of the question which he wishes to ask:

Provided that the President may allow a question to be put with shorter notice than ten days, and may in any case require longer notice or may extend the time for answering a question.

7. (1) The Secretary shall submit every question of which notice has been given to him in accordance with Rule 6 to the President, who may either allow it or, when any question is not framed in accordance with Rules 4 and 5, may cause it to be returned to the member concerned for the purpose of amendment.

(2) If the member does not, within such time as the President may fix in this behalf, resubmit the question duly amended, the question shall be deemed to have been withdrawn.

8. The President shall decide on the admissibility of questions under these rules and his decision shall be final. He may disallow any question, or any part of a question, without giving any reason therefor other than that in his opinion it cannot be answered consistently with the public interest or that it should be put in another Legislative Council or in the Indian Legislature.

9. No discussion in Council shall be permitted in respect of any order of the President under Rule 7 or Rule 8.

10. Questions which have been allowed shall be entered in the List of Business for the day, and shall be put in the order in which they stand in the list before any other business is entered upon at the meeting.

11. Questions shall be put and answers given in such manner as the President may in his discretion determine.

12. (1) A question addressed to a Member of the Government must relate to the public affairs with which he is officially connected or to a matter of administration for which he is responsible.

(2) A question addressed to a non-official member must relate to some Bill, resolution or other matter connected with the business of the Council for which such member is responsible.

13. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given:

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rule as to the subject matter of questions.

14. The Member in charge may decline to answer a supplementary question without notice, in which case the supplementary question may be put only in the form of a fresh question at a subsequent meeting of the Council.

15. These rules, except Rules 6 and 7, apply also to supplementary questions:

Provided that the President may disallow any supplementary question without giving any reason therefor.

16. The President may rule that an answer to a question in the lits of business of the day shall be given on the ground of public interest even though the question may have been withdrawn.

17. No discussion shall be permitted in respect of any question or of any answer given to a question.

18. All questions asked and answers given shall be entered in the proceedings of the Council:

Provided that no question which has been disallowed by the President shall be so entered.

19. The President may assign such time as, with due regard to the public interest, he may consider reasonable for the putting and answering of questions.

20. The Chief Commissioner may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on any occasion on which questions are asked in the Council.

A. N. L. CATER,
Secretary to the Chief Commissioner.

RULES RELATING TO THE POWERS OF THE CHIEF COMMISSIONER OF COORG AND OF THE GOVERNOR-GENERAL IN COUNCIL IN RESPECT OF EXPENDITURE FROM COORG PROVINCIAL REVENUES.

Definitions.

1. In these rules:—

(a) *Appropriation* means the assignment, to meet specified expenditure of funds at the disposal of the assigning authority.

(b) *Non-recurring expenditure* means expenditure sanctioned as a lump sum charge, whether the money be paid as a lump sum or by instalments.

(c) *Primary unit of appropriation* means a lump sum of money allotted under any of the heads detailed in Rule 12 when the budget estimates for a year have been passed.

(d) *Public Works* means civil works and irrigation, navigation, embankment and drainage works.

(e) *Re-appropriation* means the transfer of funds from one unit of appropriation to another such unit.

(f) *Recurring expenditure* means all expenditure which is not non-recurring.

Powers of sanctioning expenditure and of creating and abolishing posts.

2. The Chief Commissioner may sanction the creation or abolition of a permanent post, if the maximum pay of the post does not exceed Rs. 900.

3. The Chief Commissioner may increase or reduce the pay of a permanent post or of a Government servant in permanent employ, if the maximum pay of the post or of the Government servant does not exceed Rs. 900 after the increase or before the reduction, as the case may be.

4. The Chief Commissioner may sanction the creation of a temporary post on pay not exceeding Rs. 1,500—

(*a*) for any specified period, if the pay of the post does not exceed Rs. 900, and

(*b*) for not more than six months, if the pay exceeds Rs. 900.

5. The Chief Commissioner may reduce the pay of a temporary post, and may increase it within the limits imposed by Rule 4.

6. The Chief Commissioner may sanction the revision of the pay of an establishment, if—

(1) the provisions of Rule 3 are observed; and

(2) the additional expenditure involved does not exceed Rs. 10,000 a year.

7. The powers conferred by Rules 2—6 may not be exercised in respect of a post borne on the cadre of any of the All-India Services, or of a service ordinarily filled by officers holding the King's Commission or in respect of a member of any of those services.

8. The Chief Commissioner may sanction expenditure on contingencies, supplies and services and the purchase of articles for the public service, subject to the provisions of the Civil Account Code and to any order issued from time to time by the Governor-General in Council.

9. The Chief Commissioner may sanction expenditure on—

(*a*) grants-in-aid or contributions to educational, medical, and other institutions, and to local bodies and co-operative societies; and

(*b*) educational scholarships,

in accordance with such scales as may from time to time be prescribed or such orders as may from time to time be issued in this behalf by the Governor-General in Council.

10. In any individual case, the Chief Commissioner may sanction recurring expenditure not exceeding Rs. 1,000 a year or non-recurring expenditure not exceeding Rs. 5,000 on any object for which no scale or limit to his power of sanction is prescribed by any Act, or any rule, code or order of the Secretary of State in Council or the Governor-General in Council if the following conditions are fulfilled, namely:—

(1) the sanction does not involve an express contravention of an existing rule or order of the Secretary of State in Council or the Governor-General in Council, and

(2) the expenditure is within the powers of sanction of the Governor-General in Council.

11. Proposals which are not within the power of the Chief Commissioner to sanction under the above rules should be submitted for the consideration of the Governor-General in Council who may exercise in regard to them the same powers as are possessed by a Governor in Council other than of Burma in respect of expenditure on reserved provincial subjects. Any proposal not within the powers of sanction of the Governor-General in Council requires the sanction of the Secretary of State in Council. When the sanction of the Secretary of State in Council is required to any expenditure the application shall be addressed to the Governor-General in

Council, who shall, save as hereinafter provided, forward the same with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the Chief Commissioner, to the Secretary of State in Council.

If the application relates—

(*a*) to the grant in an individual case of an increase in pay, or

(*b*) to the creation or extension of a temporary post,

the Governor-General in Council may, at his discretion on behalf of the Secretary of State in Council, sanction the proposal, or may, and, if he dissents from the proposal, shall, forward the application with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the Chief Commissioner, for the orders of the Secretary of State in Council.

Appropriation.

12. The primary units of appropriation allotted in the Provincial budget estimate for expenditure other than on public works will ordinarily be allotments under some or all of the following heads:—

(*a*) Pay of officers.

(*b*) Pay of establishments.

(*c*) Allowances, honoraria, etc.

(*d*) Supplies and Services.

(*e*) Contingencies.

(*f*) Grants-in-aid, contributions and donations.

(*g*) Works.

(*h*) Assignments and compensations.

(*i*) Establishment charges payable to other Governments, departments, etc.

(*j*) Refunds of Revenue.

(*k*) Reserve.

(*l*) Suspense.

13. Out of the funds allotted in each primary unit of appropriation, the Chief Commissioner has full power to appropriate sums to meet expenditure falling under that unit, subject to the condition that funds may not be appropriated to meet any item of expenditure which has not been sanctioned by an authority empowered to sanction it.

Re-appropriation.

14. The Chief Commissioner may re-appropriate funds from any primary unit of appropriation to any other such unit, subject to the condition that funds may not be re-appropriated to meet any item of expenditure which has not been sanctioned by an authority empowered to sanction it.

Delegation of powers of sanction, appropriation and re-appropriation.

15. The Chief Commissioner may, with the previous consent of the Finance Department of the Government of India, delegate any part of the powers conferred upon him by Rules 2 to 5, 8, 9, 10, 13 and 14 to any authority subordinate to him.

Powers to remit disallowances by the Audit Office.

16. When an objection taken in the course of audit cannot be adjusted by the Accountant-General, Madras, in consultation with the authorities concerned, the Auditor-General may either instruct the Accountant-General, Madras, to withdraw the objection or require the Chief Commissioner, Coorg, to obtain the requisite sanction, or in default, to recover the amount under objection.

Provided that (*i*) if the objection to any expenditure is based solely on the ground that such expenditure contravenes one of the canons set out in Rule 10 of the Auditor-General's rules, the Auditor-General or the Accountant-General, Madras, shall withdraw such objection, at the request of the Chief Commissioner, Coorg, if the latter states that the breach of the canon and the action taken thereon by him will be reported as soon as possible to the Governor-General in Council, and (*ii*) if the Chief Commissioner, Coorg, orders in writing that the recovery of the amount under objection shall be foregone, the Auditor-General or the Accountant-General, Madras, shall withdraw such objection, but may require that the action taken shall be reported to the Governor-General in Council.

INTRODUCTORY NOTE ON CLAIMS WHICH HAVE BEEN MADE TO REDISTRIBUTIONS OF PROVINCIAL TERRITORIES ON A RACIAL OR LINGUISTIC BASIS.

Introductory Note on claims which have been made to Redistributions of Provincial Territories on a Racial or Linguistic Basis.

Separate memoranda are being presented to the Commission on the subject of the transfer of Sylhet from the province of Assam to the Bengal Presidency; on the amalgamation of the Oriya-speaking peoples; and on the formation of separate Andhra, Tamil and Kannada provinces. This note is confined to brief introductory general comment on the subject of these claims to redistributions of territories on a racial or linguistic basis.

2. Two sections of the Government of India Act relate to the redistribution of territories between provinces. Section 52A of the Act lays down the procedure necessary for the constitution of a new Governor's province, or for placing part of a Governor's province under the administration of a Deputy Governor. Section 60 of the Act confers power on the Governor-General in Council to alter provincial boundaries, subject to the qualifications that an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council, and that any notification published by the Governor-General in Council under this section may be disallowed by the Secretary of State in Council.

If follows that where the claim to a redistribution of territory affects only a portion of a district, or of districts, the matter can be dealt with by the Governor-General in Council under his own authority. If an entire district is to be transferred, the previous sanction of the Crown is necessary, such sanction being signified by the Secretary of State in Council. For the formation of a new Governor's province, or of a sub-province under the administration of a Deputy Governor, a special form of procedure is laid down by section 52A; before the Governor-General in Council can seek the sanction of His Majesty to the constitution of a new Governor's province, or of a sub-province, there must first have been obtained an expression of opinion from the local Government and from the local legislature affected by the proposal. In addition to this statutory provision, which reflects views expressed by the Joint Select Committee of Parliament on clause 15 as it read in the Government of India Bill, cases falling under section 52A would be held to be governed by the further comment of the Joint Select Committee of Parliament, that any clear requests made by a majority of the members of a Legislative Council, representing a distinctive racial or linguistic territorial unit, for its constitution as a sub-province, or a separate province, should be taken as a *primâ facie* case, on the strength of which a commission of enquiry might be appointed by the Secretary of State; and, secondly, that it should not be a bar to the appointment of such a commission of enquiry that the majority of the Legislative Council of the province in question is opposed to the request of

the minority representing such a distinctive territorial unit. The procedure then for the appointment by the Secretary of State of a special *ad hoc* commission of enquiry relates only to cases falling under section 52A, and not to cases falling under section 60.

3. Of the five specific proposals for provincial redistributions, mentioned in paragraph 1 of this note, those for the formation of separate Andhra, Tamil and Kannada provinces fall clearly within the provisions of section 52A. The transfer of the Sylhet district from the province of Assam to the Bengal Presidency would normally fall simply under section 60, were it not that the transfer of that district has been held to be inseparable from a consideration of the future status of the province of Assam as a Governor's province. The claims of the Oriya-speaking peoples to amalgamation might be dealt with simply under section 60 if they involved merely the transfer to the existing province of Bihar and Orissa of portions of districts from the Madras Presidency, or from the Central Provinces or from Bengal; but the claim made by the Oriyas themselves is for a separate Oriya province towards which the amalgamation of the Oriya-speaking tracts with one or other of the existing provinces would be only a stepping-stone. So long as the formation of a separate Oriya province is the objective, redistributions of territory taken with that end in view would tend to lie more properly under section 52A than under section 60.

4. In view of the comments made by the Joint Select Committee of Parliament, the Government of India have consistently adhered to the opinion that it is unreasonable to expect either the Central Government, or the central Legislature, to consider claims for provincial redistributions which have not been first debated in the Legislative Councils of the provinces concerned. The resolutions moved in the central Legislature for the formation of separate Andhra, Tamil and Kannada provinces, none of which were adopted by the central Legislature, have all failed to comply with the conditions precedent upon which the Government of India have insisted. Those conditions are, first, that proposals for the redistribution of territories on a linguistic or racial basis must indicate very strongly that they are supported by a genuine popular demand, and, second, that opinion should in the first instance be expressed in the local Legislative Councils. No resolution has yet been moved in the Madras or in the Bombay Legislative Council for the formation of a separate Kannada province; no resolution has yet been moved in the Madras Legislative Council for the formation of a separate Tamil province. After the resolution for the formation of a separate Andhra province had been lost in the Council of State in February 1927, a resolution was moved on the same subject in the Madras Legislative Council in March 1927 and carried by 40 votes to 32. Of the members representing Telugu constituencies present in the Council Chamber during the debate, 17 voted in favour of the resolution, 5 voted against it, and 6 remained neutral. A copy of the debate was forwarded by the Government of Madras without

comment to the Government of India, who reported it to the Secretary of State. Notice of a resolution to be moved in the Legislative Assembly recommending the formation of an Andhra province was then given by a non-official member and the resolution was drawn for discussion on the 20th September 1927; the mover, however, withdrew his resolution without giving reasons. The Madras Legislative Council has since made a token cut in the provincial budget estimates for the year 1928-29 to signify a censure on the local Government for neglecting to press the question of the formation of a separate Andhra province upon the attention of the Government of India.

The position then with regard to these three cases is that resolutions moved in the central Legislature for the formation of separate Kannada and Tamil provinces have been lost, and no resolution in favour of the proposals has yet been carried in the provincial Legislative Councils concerned; the case for the formation of a separate Andhra province rests with the position described above.

5. The proposal for the transfer of the Sylhet district from Assam to Bengal has been approved by the Legislative Councils of the two provinces and accepted by both local Governments. A resolution in the central Legislature moved at an earlier stage in the examination of the case was withdrawn in view of an assurance given by the Government of India that the whole question was the subject of correspondence with the provincial Governments. The case for the transfer of Sylhet now rests with the announcement made by the Government of India in June 1926 that, in agreement with a ruling of the Secretary of State, the Government of India have reserved the two questions of the transfer of Sylhet, and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission.

6. The treatment by the Government of India of the claims of the Oriyas, whether to a separate province or to amalgamation under a single administration, has followed a rather different course. After the issue of the Joint Report on Indian Constitutional Reforms, and before the new constitution had been introduced, a resolution was moved in the old Imperial Legislative Council in February 1918 by a member from Bihar, suggesting the appointment of a small committee to investigate the matter. The Home Member made it clear that it would not be appropriate at that stage for a committee to be appointed by the Government of India; the views of the provincial Legislative Councils were an essential preliminary. He undertook, however, to assist in collecting material and information which would be laid at the disposal of the four provinces affected by the proposal. The memorandum presented to the Commission describes the examination of the problem which has since been made, and explains that the next step rests with the provinces, and not with the Government of India. The general principle of the amalgamation of the Oriya-speaking tracts was accepted by the Bihar and Orissa Legislative

Council in December 1921. The matter was once discussed in a tentative manner in the Madras Legislative Council in the same year, but without any definite opinion being recorded. The amalgamation of the Oriya-speaking tracts of the Bengal Presidency or of the Central Provinces has not been discussed in the Legislative Councils of either of those two provinces.

7. In the circumstances described, there has been no official examination by the Government of India of claims made for the formation of separate Andhra, Tamil or Kannada provinces. The transfer of Sylhet from Assam to Bengal has been considered, but has been reserved for consideration by the Statutory Commission in view of its possible effect upon the status of the province of Assam. With regard to the amalgamation of the Oriya-speaking tracts a considerable amount of information has been collected and has been placed at the disposal of the Commission in the separate memorandum prepared on that subject.

8. It is possible from the discussions which have taken place on the subject of provincial redistributions to separate broadly the arguments used in their favour and those employed against them. In paragraph 246 the joint authors of the Report on Indian Constitutional Reforms observed that they were impressed with the artificial, and often inconvenient character of existing administrative units; they stated that they could not doubt that the business of government would be simplified if administrative units were both smaller and more homogeneous, and that such considerations acquired additional weight when the burdens of government were being transferred to comparatively inexperienced hands. The joint authors were of opinion that it was a strong argument in favour of linguistic or racial units of government that by making it possible to conduct the business of legislation in the vernacular, they would contribute to draw into the arena of public affairs men who were not acquainted with English.

Six years later the Reforms Enquiry Committee stated in paragraph 58 of their report that they felt that the difficulties in the working of responsible government in India were much enhanced by reason of the large size of several provinces, their artificial and unnatural boundaries, and the want of homogeneity in their populations. While agreeing with the authors of the Montagu-Chelmsford Report that a redistribution of provincial areas cannot be imposed upon the people by official action, they considered it probable that the problem would have to be considered in connection with any considerable constitutional advance.

9. Those who have come forward since the institution of the reforms with specific proposals for the linguistic or racial redistribution of particular areas have relied, in the first place, on the broad general considerations stated by the authors of the Montagu-Chelmsford Report and by the Reforms Enquiry Committee. As their second line of argument they have endeavoured to indicate the injurious effect of their present grouping on the development of particular peoples. For instance, it has been asserted that as

a result of their division between different provinces and Indian States the language of the Kannarese has been mutilated, their culture destroyed, and their traditions, literature and art have been forgotten. Similar assertions are made in respect of the Oriyas to support the demand for the amalgamation of the Oriya-speaking tracts. The Telugus and the Tamils are not distributed between different provinces. In their case the grievance is that they each share a province with other peoples dissimilar in thought and in speech from themselves. The Sylhet district probably occupies a stronger position in the small province of Assam than it would occupy as an outlying district of the Bengal Presidency: the demand of the predominant Bengali population to be amalgamated with the Bengal Presidency rests almost exclusively on racial sentiment.

The third group of arguments in favour of particular provincial redistributions arises only where the people of the particular race or language who claim amalgamation either in a province of their own or under a single administration are distributed over two or more provinces. In that event it is represented that those sections of the people living in the outlying tracts suffer from administrative or other disabilities owing to their separation from the bulk of the peoples with whom by race and language their natural affinities lie. For instance, in claiming amalgamation with the Orissa districts, the Oriyas of Ganjam have represented *inter alia* that as a small element in the composite population of the Madras Presidency, they are unable to obtain adequate representation in the public services and on the local bodies of the districts in which they reside; that there is difficulty in securing instruction in the Oriya language for their children, and that Oriya students are at a disadvantage in pursuing a higher course of study to obtain a university degree. This third line of argument relates in short to particular administrative difficulties and disabilities which vary with the locality.

10. Arguments in favour of provincial redistributions fall thus into three main groups resting (*a*) upon the general consideration that responsible government flourishes best in small homogeneous units; this is a general principle applied by those who adopt it to all claims to redistribution on linguistic or racial lines; (*b*) upon the satisfaction of popular sentiment, and the preservation of particular systems of culture, language and thought; and (*c*) upon the improvement of the administration by the removal of disabilities to which isolated groups of peoples are exposed if separated from the bulk of the peoples with whom by race or by language they should naturally be united.

11. The opposite school of thought has met these arguments on somewhat the following lines. As a general theoretical proposition it is not contested that responsible government is likely to flourish best in small homogeneous units; but before that proposition can be applied, practical considerations require to be taken into account. First among these is the consideration that

the formation of administrative divisions on a linguistic or racial basis must operate to weaken Indian unity, and is on that account to be avoided. Secondly, the creation of new provinces cannot but increase the overhead charges of administration and leave inadequate funds for the development or healthy growth of provincial institutions. Thirdly, historical, political, and commercial conditions are of equal, if not greater importance than sentimental considerations of race and language in determining the boundaries of administrative divisions, nor can questions of land and water communication be ignored. Lastly, purely administrative difficulties existing under the present distribution may be found susceptible of mitigation, if not removal, in other ways than by territorial redistributions, which necessarily entail inconvenience and unsettlement to administrators, litigants, landlords and tenants, and other sections of the public. Unwise redistributions of provincial boundaries undertaken to meet the sentiments of a particular people may in the event arouse more discontent than exists to be allayed.

12. The general conclusion towards which these discussions have tended to lead is that in no case can the linguistic or racial principle be accepted as the sole test, or as supplying in itself the ultimate and final basis for territorial redistributions. Each proposal requires consideration on its merits with strict relation to the conditions of each. Territorial changes should be confined to those from which it can be shewn that substantial benefit will be derived.

THE FORMATION OF A SEPARATE ANDHRA PROVINCE.

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The formation of a separate Andhra Province.

Discussions in the Central Legislature, and in the Madras Legislative Council.

1. The question of forming a separate Andhra province has twice been before the Government of India as a separate specific issue on resolutions moved, the first, in the Legislative Assembly, and the second in the Council of State. The resolution in the Legislative Assembly was withdrawn; the resolution in the Council of State was negatived by 28 votes to 11. Subsequently a resolution in favour of the proposal carried in the Madras Legislative Council by 40 votes to 32, was reported to the Government of India.

Mr. Ramayya Pantulu's resolution debated in the Legislative Assembly on the 3rd February 1922, and withdrawn.

2. The resolution in the Legislative Assembly was moved by Mr. J. Ramayya Pantulu on the 3rd February 1922, and read as follows:—

> This Assembly recommends to the Governor-General in Council that the Andhra districts of the Madras Presidency should be constituted into a separate province, and that he may be pleased to take early action in this respect.

The mover began by referring to two conditions which had been laid down by the Home Member in the debate on a resolution which had been moved by Mr. Latthe in the Legislative Assembly on the 21st September 1921 on the subject generally of the reconstitution of provincial boundaries. Those conditions were, first, that a specific case should be brought forward, and, second, that the initiative should rest with the local Government and the local Legislature. The mover met the first condition by raising specifically the formation of a separate Andhra province: with regard to the second condition he expressed the opinion that section 52-A of the Government of India Act authorised the Governor-General in Council to take action without waiting for an expression of opinion from the local Government.

The mover claimed that the question of forming an Andhra province had been before the public in one form or another for the previous ten years. He dated the Andhra movement from the year 1911, and said that differences of opinion which had first made themselves felt among Andhras had gradually given way to a consensus of thought in favour of a separate Andhra province. The subject had been mentioned in a debate in the old Imperial Legislative Council in February 1918 on a resolution recommending the redistribution of provinces on a linguistic basis: and the claims of the Andhras to a separate province had been placed prominently before the Viceroy and the Secretary of State in 1917.

The mover next sketched briefly the earlier history of the Madras Presidency. He said that the four Andhra coast districts, known as the Northern Circars, acquired by grant from the Emperor of Delhi in 1765, formed the original nucleus of the province; in 1792 further territory was acquired as a result of the Mysore wars, and still more, in 1799, owing to the abdication of the Raja of Tanjore. In 1800 the Nizam of Hyderabad ceded the Telugu (Andhra) districts since known as the ceded districts. In 1801 the Nawab of the Carnatic retired on pension in favour of the British Government, and his territory was tacked on to the administration of the Madras Government. From this the mover argued that owing to the diverse elements which it comprised the Madras Presidency was unsuitable as an administrative unit. Under responsible government provinces should be homogeneous; the Madras Presidency was in any case too large for efficient administration. At the time when the resolution was debated all three Ministers in the Presidency were Andhras, and there were two Andhra Judges on the Madras High Court; the Andhras felt that the time had come when they should run a province of their own.

The mover did not define the precise territory, which he would include in an Andhra province, but claimed that a compact unit could be formed. He stated that the country extending along the east coast from Ganjam almost to Madras was exclusively Telugu. He quoted census figures which showed that there were more than 15 million Andhras in the Madras Presidency; and estimated on that ground that the population of an Andhra province would exceed the population either of Burma, of the Central Provinces or Assam, and would be little less than the population of the Bombay Presidency or of the Punjab.

In the important matter of provincial finance the mover calculated that the revenues of an Andhra province would be roughly about half the revenues of the Madras Presidency as at present constituted, and claimed that its resources would exceed those of any of the provinces of Burma, the Punjab, Bihar and Orissa, the Central Provinces or Assam.

3. The mover was followed by a nominated official from Madras who expressed surprise that the resolution should have been moved in the Legislative Assembly without prior discussion in the Madras

Legislative Council. He took the point that the Andhras did not suffer by their association with Madras; on the contrary they had established a position of great influence in the Presidency: in his opinion a great objection to the scheme was the increased cost which it would entail. Brief speeches were made by a representative of the city of Madras, who considered the proposals premature, and by an Assam member who considered that in view of the general financial position of the country policy should be directed towards *uniting and amalgamating* provinces rather than towards *dividing* them and creating new provinces.

4. The Home Member opposed the resolution on behalf of the Government of India and argued that, in view of its lack of local knowledge, it was unreasonable to expect the Assembly to take the initiative in a matter on which the views of those directly concerned had not been expressed. If a motion to form a separate Andhra province secured substantial support from the Andhra representatives in the Madras Legislative Council, it would be incumbent upon the local Government to refer the matter to the Government of India, who would then, and only then, consider what action should be taken, and whether a special *ad hoc* commission of enquiry should be appointed to investigate the matter. The Home Member anticipated that there might be difficulties in defining the boundaries of a separate Andhra province, and referred in particular to the districts of Ganjam where the proportion of Telugu-speaking peoples is comparatively small, and of Bellary where only 33 per cent. of the population speak Telugu. He further warned the House that in matters of this kind it would be unsafe to base conclusions merely on linguistic tests. There were other considerations of equal importance, financial and administrative, historical and sentimental, which could not be ignored. The Home Member suggested to the mover that as he had not obtained support even from members of his own province, he should withdraw his resolution.

5. In concluding the debate the mover admitted that additional expenditure might be involved, but it would fall upon the Andhras who were prepared to bear the burden. With reference to the Ganjam district he stated that when an Andhra province was formed, it might be possible to amalgamate the Oriya-speaking part of the district with the Oriya-speaking tracts on the North. He admitted that there were difficulties with regard to the two districts of Bellary and Anantapur which contained a large Kannarese population: but held that these districts could never form part of a Kannada province, because the only Kannarese territory with which they could be united was the State of Mysore, and that they would be no worse off in a separate Andhra province than they were now in the Madras Presidency. The mover stated that he did not wish the Assembly to commit itself at that stage: his object was to have enquiry instituted; in view however of the lack of support which he had received in the Assembly and of the sympathetic reply given by Government, he was prepared to withdraw his resolution.

The resolution was, by leave of the Assembly, withdrawn.

Resolution moved in the Council of State by the Hon'ble Mr. Ramadas Pantulu on the 16th February 1927 negatived by 28 votes to 11.

6. The second resolution bringing the question of the formation of a separate Andhra province as a separate specific issue before the Government of India was moved in the Council of State on the 16th February 1927 by the Hon'ble Mr. Ramadas Pantulu recommending.

> "...to the Governor-General in Council to advise His Majesty's Government to take such steps as may be required to constitute the Andhra (Telugu) districts of the Madras province into a separate province with a full measure of responsible government ".

In the years which had elapsed since Mr. Ramayya Pantulu had moved his resolution in the Legislative Assembly in 1922, no resolution had been moved in the Madras Legislative Council. In the course of his speech, the mover made no reference to that resolution, nor to the statement of the position of the Government of India expressed in the course of that debate, namely, that ' if a resolution were to be moved in the Madras Council, and the local Government could obtain an expression of opinion from the members coming from the areas affected, then and then only would the Government of India be prepared to consider what, if any, action should be taken by them '. The mover referred, however, to a statement of the policy of the Government of India expressed by the Home Secretary in the previous year in replying to a resolution on the subject of the formation of a separate Kannada province, when he said that there were certain conditions precedent requiring fulfilment before any proposal for provincial redistributions could be considered by the Government of India, those conditions being that the proposal " shall emanate directly from the community concerned, that there should be the strongest indications of a very large measure of public opinion in that community behind the proposal, and that such public opinion ought in the first instance to be expressed through its proper primary and constitutional channel, the local Legislative Council ".

The mover claimed that in the matter of the claims of the Andhras to a separate province these conditions had been amply satisfied. He sketched the growth of the Andhra movement which he stated to have originated at about the time of the anti-partition agitation in Bengal; he referred to the annual conferences of the Andhras; to the attention given to their claims in a debate on a resolution in favour of the linguistic redistribution of provinces moved in the old Imperial Legislative Council by Sir (then Mr.) B. N. Sarma on the 6th February 1918; and to a memorandum on the subject presented to the Joint Select Committee of Parliament (*vide* Appendix V, Volume III of the proceedings of the Joint Select Committee on the Government of India Bill). Though no resolution had been moved in the Madras Legislative Council, he claimed that there was practical unanimity in favour of the proposal among the Andhra members of that Council. He con-

sidered that section 52-A of the Government of India Act definitely placed upon the Government of India the onus of ascertaining the opinion of the local Government and of the local Legislative Council.

The mover went further than Mr. Ramayya Pantulu had done in 1922, and described the precise area which he considered should be constituted into a separate Andhra province. The province should, in his opinion, comprise the districts of Ganjam, Vizagapatam, East Godavari, West Godavari, Krishna, Guntur, Nellore, Chittore, Bellary, Anantapur, Kurnool and Cuddappa, together with the northern portion of the city of Madras, which the mover stated to be largely inhabited by Telugu-speaking people. He expressed the opinion that a province so constituted would not conflict with claims of the Oriyas who inhabit portions of the Ganjam districts or claims of the Kannarese who inhabit portions of the Bellary district, since he would not oppose their desire to be joined with separate Oriya and Kannada provinces when formed. The area of the province which he suggested would be 73,318 square miles with a population of 14 millions.

On the subject of the form of responsible government which he recommended the mover stated that he had in mind a federal form of self-government, and that he contemplated each province reaching full responsible government on a basis of self-determination, and not on the basis of an examination by an outside authority. The Government of the province would consist of a Governor, a Legislature and an Executive. The Governor should be a strictly constitutional Governor; the Legislature should be unicameral, fully elected on as wide as possible a franchise. The mover personally favoured adult suffrage, and wished to abolish all qualifications based on property, education or other tests. For the protection of minorities he preferred election on a system of proportional representation by a single transferable vote. He particularly warned the House against permitting second chambers to be, as he said, foisted upon the provinces. The mover recommended that the Executive should be undivided and fully responsible to the Legislature. Other points in the mover's outline of his scheme of self-government were that the provinces should enjoy as complete a measure of fiscal autonomy as may be compatible with their relations towards the Central Government, or with any agreement that may be arrived at between them regarding their financial adjustments; and that the Civil Services should be organised and recruited on a provincial basis subject to the exception that such All-India Services as may be necessary should be recruited by mutual agreement between the provincial Governments and the Central Government; there was no reason for the continued existence of the Covenanted Civil Service which should be immediately abolished.

The mover did not discuss the constitution of the Government of India, except to say that it also should be fully responsible to its legislature and that the defences of the country as a whole should be its exclusive concern.

7. Four Madras members took part in the debate which ensued. The Hon'ble Dr. Rama Rau briefly supported the resolution and expressed the hope that in view of the fact that the date for the appointment of the Statutory Commission was approaching, the whole question of the distribution of provinces on a linguistic basis should be taken up immediately and solved to the satisfaction of the Andhras, the Kannarese and the Oriyas. The Hon'ble the Raja of Bobbili considered that financial and other difficulties put the proposition for a separate Andhra province outside the pale of practical politics. The Hon'ble Mr. Evans, a nominated official member, opposed the motion on the grounds that no resolution had been moved in the local legislature and there was no evidence of a strong popular demand; that the Telugu districts had not suffered by their inclusion as part of the Madras Presidency (for instance, they had been given two first class irrigation schemes and, recently, an Andhra university); that those districts would have financial difficulty in supporting a separate administration of their own; that there would be practical difficulties in determining the boundaries, particularly in the Bellary district; that it was doubtful whether there was any real common bond of tradition or culture between the Telugu districts; and, lastly, that politically the creation of these " sub-nations " was of doubtful expediency in the interests of the country as a whole. The fourth Madras member to speak on the resolution, namely, the Hon'ble Sir Sankaran Nair, reserved himself to reply to the statement made by the Home Secretary of the position of the Government of India. In the meantime the resolution had been supported by a member from Burma and opposed by a member from Bengal, who suggested that the mover of the resolution would have been better advised to await the arrival of the Statutory Commission before bringing forward his claim for full responsible government for a separate Andhra province.

8. The Home Secretary took the two parts of the resolution separately under consideration, and with reference to the first part, stated that the Government of India were in no sense hostile to the underlying principle of the establishment of provinces on a linguisic basis, but their view was that any proposal of that kind required very careful examination; in fact, their attitude was one of neutrality. While the principle itself was attractive, there were certain obvious limitations on its practical application, and the first condition in dealing with proposals of this kind was that the Government should not act in advance of or in opposition to public opinion. For that reason, the Government of India had laid down very clearly that before they can consider any such proposal, they must be satisfied that there is a real popular demand and that if that popular demand exists they may expect to find it voiced in the local Legislative Council. This condition had not been fulfilled in the case of the resolution before the House. He dissented from the view expressed by the mover that section 52-A imposed an onus upon the Government of India to ascertain opinion, and expressed the view that the comments of the Joint Select

Committee on clause 15 of the draft Government of India Bill made it clear that they intended the initiative to rest with the local Council and the people immediately concerned. He observed that the proposal appeared to be part of a general scheme for dividing the Madras Presidency into three provinces. There had now been three resolutions for the formation, first, of an Andhra province (again repeated in the resolution under discussion); then for the formation of a Kannada province; and then for the formation of a Tamil province. The Home Secretary suggested to the mover that if he wished his proposal considered his best course was first to obtain what he had not yet established, that is to say, unequivocal local support. When that has been done, he would be in a position to approach the body which alone could give a decision in the matter, and that was the Statutory Commission.

With regard to the second part of the resolution relating to the establishment of complete self-government in a separate Andhra province, the Home Secretary stated on behalf of the Government of India that it would clearly be impossible to consider the constitution for a single province without entering into the difficult question of its relations with other provinces and with the Central Government. This again was a matter which must come before the Statutory Commission. It was no use working at a small corner of a building until a plan for the whole had been decided; that could be done only after the Statutory Commission had visited India and had considered the needs and wishes of all parts of India and submitted a comprehensive plan for the whole.

On these grounds the Home Secretary held that the resolution was premature, and that the conditions which the Government of India had invariably laid down as precedent to considering any action by themselves had not been fulfilled. For these reasons the resolution was opposed by the Government of India.

The Hon'ble Sir Sankaran Nair, who a year previously had unsuccessfully moved a resolution in the Council of State for the formation of a separate Tamil province with complete responsible self-government, gave his support to the resolution and replied to the Home Secretary's arguments by the suggestion that it was for the Government to supply the machinery by which popular feeling could be tested: this could be done by the appointment of a committee of enquiry; it was true that the matter had not been debated in the Madras Legislative Council, but the proposal was not for the partition of provinces to continue under the existing system of government, but for the creation of a separate self-governing province; in the circumstances the matter was properly raised in the Central legislature. Instead of the matter being deferred till the Statutory Commission came out to the country, it would be better that it should be taken up and examined at once, since the enquiries might be expected to extend over two or three years.

The resolution was put to the vote and was lost by 28 votes to 11.

9. A month later, on the 14th March 1927, Mr. P. Anjaneyulu moved a resolution in the Madras Legislative Council to the effect that—

Mr. Anjaneyulu's resolution carried in the Madras Legislative Council on the 14th March 1927 by 40 votes to 32.

> " This Council recommends to the Government to recommend to the Governor-General in Council that the contiguous Telugu-speaking areas in the Presidency be constituted into a separate Andhra province for all legislative, administrative and judicial purposes ".

It will be observed that this resolution made no reference to the particular form of self-government which the province should enjoy. Seventeen members participated in the debate, a great part of which was concerned with the discussion of an amendment which proposed to exclude the ceded districts and the district of Chittore from the scope of the resolution. The mover of the amendment explained that he was not opposed to the formation of a separate Andhra province, but wished to exclude the ceded districts and Chittore which he considered would fit in better into a separate province to be formed of the central districts of the Madras Presidency, with a third separate province consisting of the southern districts. This amendment, which was eventually lost, was opposed on the ground that the grouping of the ceded districts and Chittore could be reserved for subsequent consideration, and should not prejudice the voting on the formation of a separate Andhra province.

10. The arguments in favour of the original resolution covered much the same ground as the arguments raised in the earlier debates in the Assembly and in the Council of State. The mover entered with rather greater detail into the financial aspects of separation, and claimed that since the Andhras had now been conceded a University of their own, they should not be denied a separate province. The speeches of some members in support of the resolution were inclined to be contingent upon support for separate Tamil, Kanrarese and Malayali provinces. An Oriya member of the Council claimed that the Oriya-speaking tracts belonged to Orissa and should not pass into a separate Andhra province. Only three speakers opposed the motion; Mr. Arpudaswami Udayar pointed out that the Andhra University was the outcome of special cultural needs, but there were not the same administrative and political needs for a separate Andhra province. In his opinion a separate province was undesirable economically, and undesirable from a national standpoint; the formation of provinces on a linguistic basis would set back the clock of progress and accentuate separatist and communal tendencies. Diwan Bahadur M. Krishnan Nayar opposed the resolution for financial reasons and because he objected to the question of an Andhra province being taken up separately; if it were necessary to divide up the Madras province linguistically, this could best be done by the appointment of a committee to decide how many provinces should be constituted, whether three or four on the basis of languages, Telugu, Tamil, Malayalam or Kanarese.

11. The views of the Government of Madras were briefly stated by the Hon'ble Mr. Marjoribanks who said that the question of dividing provinces on a linguistic basis could scarcely be considered with reference to a single province; if considered with reference to the whole of India, very careful examination would be required of the political and economic effects. If the whole of India were to be divided into provinces constituted on a linguistic basis, they might not afford altogether as promising a field for the advancement of self-government, as they would if they remained constituted as at present. He had no doubt that the question would have to be dealt with at length before the next advance, when the reforms took place.

The resolution as carried by 40 votes to 32. Of the members representing Telugu constituencies present in the Council Chamber during the debate 17 voted in favour of the resolution, 5 voted against the resolution, and 6 remained neutral.

The proceedings of the Madras Legislative Council were reported, without comment, by the Government of Madras to the Government of India, and brought by them to the notice of the Secretary of State.

Mr. Jogiah's resolution withdrawn in the Legislative Assembly on the 20th September 1927 without debate.

12. Mr. V. V. Jogiah representing the Ganjam *cum* Vizagapatam Non-Muhammadan Rural constituency of the Madras Presidency in the Legislative Assembly followed up the debate in the Madras Legislative Council by notice of a resolution to be moved in the Assembly in similar terms, namely that—

> "This Assembly recommends to the Governor-General in Council to take steps, at an early date, to constitute the contiguous Telugu-speaking areas in the Madras Presidency, into a separate province for all legislative, administrative and judicial purposes".

The resolution was drawn for the 20th September 1927, but, without giving reasons, the mover asked for and obtained leave to withdraw and the resolution was not debated.

Subsequent discussion in the Madras Legislative Council.

13. The question of the formation of a separate Andhra province has since been again raised in the Madras Legislative Council on a token cut moved on the 19th March 1928 on the budget estimates for 1928-29, and accepted by the Council. The mover explained that his object was to draw attention to the neglect of the provincial Government in failing to press upon the Government of India the need for forming a separate Andhra province. When the House divided, 44 members voted for the motion; 20 members voted against the motion; and 29 members remained neutral.

THE FORMATION OF A SEPARATE TAMIL PROVINCE.

The Formation of a separate Tamil Province.

1. The only occasion on which the formation of a separate Tamil province has been before the Government of India as a separate specific issue has been the moving of a resolution in the Council of State on the 15th March 1926 by the Hon'ble Sir Sankaran Nair recommending—

> " . . . . to the Governor General in Council to advise His Majesty's Government to take such steps as may be required to constitute the following districts inhabited by the Tamil-speaking race, that is to say, Chingleput, North Arcot, Salem, Coimbatore, South Arcot, Tanjore, Trichinopoly, Madura, Ramnad and Tinnevelly, into a province with complete self-government."

2. In putting forward his scheme on behalf of the Tamil-speaking peoples, the mover stated simply that he did so primarily because he was himself well acquainted with the conditions of the Madras Presidency, and because he was of opinion that the Tamil districts were entitled to autonomy. He claimed that the Tamils possessed a culture which was not inferior to any other in the world, and were intellectually fit to conduct their own administration. As a further point he claimed that the reforms had been successfully worked in the Madras Presidency and the time had come for a further advance.

3. The greater part of the mover's speech was devoted to a description of the particular form of provincial self-government which he recommended.

The Government of the Province was to consist of the King represented by the Governor, a Senate, and a House of Commons. This Parliament was to have power to make laws for the peace, order and good government of the province, including taxation, expenditure, loans, postal and telegraphic services, railways, aeroplanes, naval, military and air forces. The mover held that there was no danger in giving the province control of its own defence. Since it lay in the extreme south of India it need not fear any foreign invasion, and would require an army only for police purposes; at the same time it was desirable to create a Tamil army so that when British India eventually obtained Home Rule, there might be armies created by the provinces which would be able to undertake the defence of the Empire. The mover suggested that, during peace, the Government of the province should have the entire control of its own forces; during war, their control would pass to the Viceroy and the Commander-in-Chief with power to remove them from the province for use either in British India or elsewhere.

The House of Commons was to consist of 300 members chosen by single electoral districts by universal suffrage and secret ballot; no

person less than 30 years of age was to possess a vote; an elector would be entitled to one vote only and would have the right to vote in any electoral district that he chose; each district would contain not less than 25,000 electors. Universal suffrage was recommended as being necessary in the interest of the lower classes. The mover claimed that all the benefits of communal representation would be secured by allowing the elector to choose his own electoral district. This provision would enable the Muslim voters in various districts to choose a particular district for voting and thus secure a majority in that district. Each member of the House of Commons would sit for three years; one-third of the members vacating their seats by rotation annually.

The Senate was to consist of persons who possessed an annual income of not less than Rs. 1,00,000 and members of the Civil Service who had retired after 20 years' service. Any law passed by the House of Commons was to become operative when it received the assent of the Senate. The Senate would possess power to refer a measure for further consideration after the next election of 100 members, but it was not to be given any final veto; provision was made in certain cases for measures in dispute to be decided by a referendum to the electorate.

On the subject of the Services, the mover suggested that the Civil Service of the province should be recruited solely by competition, either in the province itself or in England, under generally the same conditions as at present prevail, but that after 5 years it would be open to the Parliament to make fresh regulations.

The mover made no reference to the form of the Executive which he had in mind.

The mover made no proposals relating to the constitution of the Government of India; he said that in his opinion such proposals should be made by the Parliaments of the self-governing provinces of India in consultation with each other; in putting forward his scheme of self-government for the Tamil districts he wished to keep the issues as simple as possible.

4. The resolution was opposed by the Home Secretary on behalf of Government. Attention was drawn to the fact that the resolution raised two issues which there was some difficulty in meeting in the course of a single debate. These two issues were in the first place the constitution of a province on a linguistic basis, and, secondly, the grant to a province, so constituted, of complete self-government. The Home Secretary drew attention to the fact that the mover had passed lightly over the first of these two issues, and took the opportunity to explain to the House the attitude of Government to the general proposition of the constitution of provinces on a linguistic basis, and to any particular proposition taking that form. In accordance with the policy laid down in the Joint Report and in the Joint Parliamentary Report on the Government of India Bill, the policy of Government with regard to these proposals was

sympathetic, but they must insist as precedent conditions to the consideration of any such proposition, first, that the proposal must emanate directly from the community concerned; second, that there should be the strongest indications of an effective measure of public opinion in that community behind the proposal, and third, that such public opinion ought, in the first place, to be expressed through its proper constitutional channel, namely the local Legislative Council. These conditions had not been fulfilled in the case under discussion. The mover's scheme of complete self-government was criticised by the Home Secretary in general terms; in regard to matters of defence attention was drawn to the protection given to the Madras coast by the British Navy.

5. The debate was resumed on the 16th March. The mover obtained support from a Berar member and from a Tamil member representing a Burmese constituency, but the remaining speakers were opposed to the resolution. The Hon'ble Mr. Murarji, representing a Bombay constituency, resented the implication that the Tamil-speaking districts were more ready by reason of their political advancement for an experiment in self-government than any other linguistic area in the country; he was not in sympathy with piecemeal reform of that kind. The Hon'ble Colonel Nawab Sir Umar Hayat Khan contended that the multiplication of independent provinces would revive the conditions which existed when India was divided up between a number of rulers; the armies of the different States would be unable to unite for any common purpose. The Hon'ble Mr. K. C. Roy, a nominated non-official, expressed himself to the effect that any attempt to divide India on a language basis was a proposition fraught with grave difficulties, communal, political and geographical. Mr. Roy stated that he stood for the political and geographical distribution of India as it existed to-day; this distribution had been made as the result of their experience by great administrators and has stood the test of time. The Hon'ble the Raja of Bobbili commented that if language were to be taken as a criterion the Madras Presidency would need to be split up into three provinces speaking Tamil, Telugu and Kannarese, and there would have to be a fourth province consisting of the district of Malabar in which Malayalam is spoken.

6. The motion was negatived without a division.

THE FORMATION OF A SEPARATE KANNADA PROVINCE.

The Formation of a separate Kannada Province.

1. The only occasion on which the formation of a separate Kannada province has been brought as a separate issue before the Government of India was on a resolution moved in the Council of State on the 17th February 1926 by the Honourable Rao Sahib Dr. U. Rama Rao recommending that—

> A committee of officials and non-officials be forthwith appointed to enquire into, and suggest ways and means for, the formation of a separate Kannada province.

The mover referred to the distribution of the Kannarese people over parts of the Madras Presidency and the Bombay Presidency, the Mysore State, the Nizam's Dominions and Coorg, and said that as a result of their division between these different states and provinces, the language of the Kannarese was mutilated, their culture destroyed, and their traditions, literature and art forgotten. He stated that, as matters stood, the Kannarese were unable to exercise sufficient influence either in the Madras or in the Bombay Councils. The mover claimed that the formation of a separate Kannada province represented the long-standing ambition of the Kannarese, who had presented a memorial to that effect to the Secretary of State in 1917. The scheme which the mover propounded was the constitution of a separate Kannada province to consist of the following portions of British India, namely—

(*a*) the Belgaum, Dharwar, Bijapur and North Kannada districts from the Bombay Presidency;

(*b*) the Bellary, Anantapur, Hosur, and South Kannada districts and the Nilgiris from the Madras Presidency; and

(*c*) the province of Coorg.

He stated that a province so formed would cover an area of 43,615 square miles with a population of more than eight millions, and he claimed that it would possess sufficient revenues to run its own administration.

2. An amendment to the resolution was moved by the Honourable Mr. V. Ramadas Pantulu, who wished to substitute a resolution to the effect that—

> This Council recommends to the Governor General in Council that, with a view to the re-grouping of provinces, as far as possible, on a linguistic basis, a Committee with a non-official majority be appointed to enquire into, and suggest ways and means for, constituting the Kannarese-speaking tracts of the provinces of Madras and Bombay into a separate Kannada province.

The mover of this amendment explained that he was in substantial agreement with the resolution, and moved his resolution

merely in order to take the point that the claims of the Kannarese to a separate province should be dealt with as part of a comprehensive scheme of provincial reconstitution for the whole country. He referred, in particular, to the claims of the Telugus to have an administration of their own.

3. A non-official member from the Punjab opposed the resolution both on grounds of economy, and because he objected to further partitions which would have the effect of making the provinces too small. He was followed by a nominated official from the Bombay Presidency, who emphasised the following points:—

(*a*) that the division of all India linguistically would weaken its unity:

(*b*) that there was no strong popular demand for the formation of a Kannada province. Three years previously notice of a resolution to that effect had been given in the Bombay Council but the resolution was disallowed because, in the form in which it had been drafted, it recommended that portions of the Madras Presidency should be taken away and added to the Bombay Presidency; no amended resolution had since been brought forward; on the other hand, notices had been given of resolutions recommending increased representation for the Kannarese in the Bombay Council;

(*c*) that the grouping of districts recommended by the mover ignored the presence of people other than the Kannarese, and was unsuitable for administrative purposes. Disagreeing with the mover, the member estimated that the Kannarese people in any tract which could be formed into a separate province would not number more than about 3 millions. He claimed that there were only two districts which were almost entirely Kannarese, namely, Bijapur and Dharwar; in Belgaum and North Kannada the Kannarese preponderate; in South Kannada and Bellary there are a considerable number of Kannarese; elsewhere they are few; the Coorgs would resent losing their separate province; the province recommended by the mover would be merely a fringe of territory round the State of Mysore; and

(*d*) that the total revenues of the province would be too small.

4. Speaking on behalf of the Government of India, the Home Secretary drew attention to the fact that the requisite conditions had not been fulfilled. The Joint Select Committee of Parliament had made it clear that proposals for the redistribution of territories on a linguistic basis must indicate very strongly that they are backed by a genuine popular demand which must, or ought to, be expressed in the first instance in the local legislative Councils. The resolution invited official action in a matter which under every

consideration of prudence and statesmanship should be left to popular initiative.

5. In concluding the debate the mover claimed that there was sufficient evidence of a popular demand in the memorial presented to the Secretary of State in 1917, and in the formation by the Indian National Congress of a separate Karnataka branch.

6. The resolution and its amendment were both negatived without a division.

THE AMALGAMATION OF THE ORIYA-SPEAKING PEOPLES.

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The Amalgamation of the Oriya-speaking Peoples.

The scope of the Memorandum.—This memorandum purports to give a brief account of the rise and growth of the movement among the Oriyas in favour of the amalgamation of the Oriya-speaking tracts. In order that the issues raised may be appreciated, it is proposed first to give some description of the tracts in which the Oriya-speaking peoples are found and then to trace the arrangements made from time to time for their administration, before discussing the later developments of the agitation in favour of the amalgamation of the Oriya-speaking peoples, whether in a separate province of their own or under a single administration. The memorandum will thus fall into three parts, the first of which will indicate the territories now inhabited by the Oriya-speaking peoples; the second will describe the arrangements made for their administration from the time when they passed under the control of the British Government up till and including the formation of the province of Bihar and Orissa in 1912; the third and last part of the memorandum will be devoted to an examination of the discussions

which have subsequently ensued on the subject of further administrative changes having for their object the union of the Oriya-speaking peoples.

I.

2. *The "holy land of Orissa".*—Whatever speculation there may be as to the geographical delimitation in ancient times of the province or kingdom of Orissa, the authentic home of the Oriya race may well be said to be within what are now the three sea-board districts of Cuttack, Puri and Balasore, which, together with the district of Sambalpur, which is divided from them by intervening Feudatory States, at present constitute the Orissa division of the province of Bihar and Orissa. These three districts form the strip of territory, washed on the south by the waters of the Bay of Bengal and hemmed in on the north by the broken highlands of the Orissa Feudatory States, to which Oriyas refer with affectionate pride as the "holy land of Orissa", the real Utkal. Orissa as a religious centre was described more than fifty years ago by Sir William Hunter in his History of Orissa, from which the following passage is taken:—

> "For two thousand years Orissa has been the Holy Land of the Hindus. The ancient texts love to dwell on its sanctity. It is 'the land that taketh away sin'. It is 'the realm established by the gods'; and its Sanskrit name, Utkaladesa, literally the Glorious Country, has crystallised the devotional regard of forty generations..... From end to end it is one vast region of pilgrimage..... ..... From the moment the pilgrim passes the Baitarni river on the high road forty miles north-east of Cuttack, he treads on holy ground. Behind him lies the secular world with its cares for the things of this life; before him is the promised land which he has been taught to regard as a place of preparation for Heaven ..... There is not a fiscal division in Orissa without its community of cenobites, scarcely a village without fertile abbey lands, and not a single ancient family which has not devoted its best acres to the Gods."

The ancient temples which are the glory of the Puri district, the Jagannath temple in Puri itself and near by the black pagoda of Kanarak and the historic shrines at Bhubaneshwar are evidence of the religious importance of Orissa.

3. *The extension of the Oriya-speaking peoples.*—The first Oriyas must have established themselves on the sea-board at a very early date. It is a point worth mentioning that they did not enter Orissa by the hill passes. Sir William Hunter (Vol. I, page 201) states that there can be no question regarding the route by which they travelled.

> "The local legends point to the same conclusions as the inductions of European scholars, and prove that the Aryan

colonists marched down the valley of the Ganges, and skirting round Bengal reached Orissa."

As their power grew, their natural line of extension was in the low-country round the sea-board to the South; but against the Telugus they made little real headway. The mountain-spurs, which run down to the sea on the south of the Chilka lake, formed a well-defined natural boundary which early tended to be accepted as a political boundary. Penetrating inland, the Oriyas left the plains for the hills and came into contact with the virile aboriginal races with which they had no racial affinity and with which, except on the fringes, they have never mixed. The penetration of the Oriyas into the hinterland followed the valleys of the numerous great rivers which pour their waters to the sea through Cuttack, Puri and Balasore, and to this day their distribution is in some respects governed by that factor. The Oriyas seem to have penetrated, sometimes as conquerors, sometimes as cultivators. The aborigines retired into the hill fastnesses and were not dislodged; but carrying their superior civilization and culture the Oriya immigrants absorbed the best lands in the valleys and open plains; and further opportunity came their way when the country of the Kols and other autochthonous tribes passed under the domination of Rajput overlords, whom Oriyas served as priests, courtiers, and advisers. Oriya culture thus extended its influence through the uplands, and brought under its sway peoples of various origins, differing in racial characteristics from the Oriyas of the sea-board and of the plains, but drawn together by the link of a language and of a culture in which they shared alike.

4. *Their present distribution.*—As a result of this expansion of the Oriya civilization, the Oriya-speaking peoples of present times are widely distributed beyond the sea-board which has been described above as the authentic home of the Oriya race. Oriyas early established a predominance in the lower Garhjat States. The northern part of the Ganjam district of the Madras Presidency, which marches with the Puri district, is inhabited to a great extent by Oriya-speaking peoples. In some parts of Vizagapatam, Oriya is the language most commonly heard. On the eastern border of the Balasore district, portions of the Bengal district of Midnapore are more characteristically Oriya than Bengalee. The Sambalpur district was claimed by the Oriyas as their own, and the claim was admitted by Government in 1905 when Sambalpur was transferred from the Central Provinces and amalgamated in the Orissa division under the then Government of Bengal. On the fringes of the Sambalpur district there are tracts still under the administration of the Central Provinces in which Oriya is freely spoken. Oriyas are found in the Singhbhum district of the province of Bihar and Orissa, and in the Feudatory States lying north of the Garhjats.

5. *Census statistics.*—The following tables indicate the distribution according to the census statistics of 1921 of the Oriya-speaking peoples under the four Governments of Bihar and Orissa, of Madras, of the Central Provinces and of Bengal.

A.—*Oriya-speaking peoples under the Government of Bihar and Orissa.*

	Total Population.	Orissa Population.
The Orissa Division—		
Cuttack	2,064,678	1,982,462
Balasore	980,504	924,628
Puri	951,651	921,213
Sambalpur	789,466	695,855
	4,786,299	4,524,158
The Orissa Feudatory States	3,959,669	2,940,338
Angul	182,574	133,789
Singhbhum	759,438	140,821
	9,687,980	7,739,106

Of these areas the four districts of Cuttack, Balasore, Puri and Sambalpur form the Orissa Division. The Orissa Feudatory States comprising the Garhjats, the States transferred from the Central Provinces in 1905 and other States formerly under the Commissioner of Chota Nagpur, together with the British district of Angul, are under the charge of a Political Agent and Commissioner whose headquarters are at Sambalpur. The Singhbhum district is part of the Chota Nagpur Division.

B.—*Oriya-speaking peoples under the Government of Madras.*

	Oriya population.
Ganjam	931,790
Agency Tracts	602,425
Vizagapatam	32,751
	1,566,966

C.—*Oriya-speaking peoples under the Government of the Central Provinces.*

	Oriya population.	
Bilaspur district—		
Chandrapur estate	1,378	
Padampur estate	17,075	
		18,453
Raipur district—		
Phuljhar estate	72,442	
Khariar estate	99,399	
		171,841
The Feudatory State of Raigarh	34,167	
The Feudatory State of Sarangarh	24,411	
		58,578
		248,872

D.—*Oriya-speaking peoples under the Government of Bengal.*

	Oriya population.
Midnapore	142,107

As in the figures for other Governments also this figure, of course, excludes Oriyas who have migrated further afield. Thus, for obvious reasons, no account is taken of the one lakh or more of Oriyas in the Presidency division, many of whom are employed in Howrah.

According to these figures, the distribution of Oriyas between the four provinces is as follows:—

	Oriya population.
Bihar and Orissa (including the Orissa Feudatory States)	7,739,106
Madras	1,566,966
The Central Provinces	248,872
Bengal	142,107

Thus out of a total of approximately 9½ millions of Oriya-speaking peoples 4½ millions are under the administration of the Government of Bihar and Orissa; and three millions reside outside British India in the Orissa Feudatory States. Of the remaining two millions, 1½ millions are under the administration of the Government of Madras. The district of Angul, which lies in the midst of the Orissa Feudatory States, is a backward tract wholly excluded from the jurisdiction of the Ministers and of the Legislative Council. The Sambalpur district in Bihar and Orissa and the Agency Tracts in the Madras Presidency are partially excluded backward tracts.

A linguistic map indicating the distribution of the Oriya-speaking peoples is enclosed in the first appendix to this memorandum.

II.

6. *The 'dismemberment' of Orissa.*—In the second appendix to this memorandum a copy is given of an address presented in 1917 to His Excellency the Viceroy and to the Secretary of State by representatives of the Utkal Union Conference, who expressed their grievance in the following words—

> "The Oriyas were under one administrative system under Oriya monarchs who ruled for centuries over a vast tract of country between the sacred rivers, the Godaveri and the Ganges, and founded Puri (Jagannath) as the religious capital of India. Yet nothing in modern times has stirred the heart of the Oriya nation so deeply as their present administrative dismemberment under different local Governments."

The memorialists sketched in outline the earlier history of Oriya political ascendancy in the tracts south of the Puri district and in particular in Ganjam, where the Gajapati princes of Orissa had

once been all-powerful. The memorialists drew attention to the fact that the British acquisition of the Ganjam district preceded their acquisition of Orissa by almost forty years, and stated that the administrative separation of other Oriya tracts was due to similar circumstances. Other leaders have on more than one occasion charged the British Government with direct responsibility for the dismemberment, or as they sometimes call it, the vivisection of Orissa. A few preliminary words are therefore necessary to describe the circumstances in which the several Oriya-speaking tracts came separately under British control. At the time of the first contacts of British officers with the Oriya-speaking peoples, there was no unity of the Oriyas under any single indigenous administration. The Oriya monarchs whom the memorialists of 1917 stated to have ruled for centuries over a vast tract of country between the Godavari and the Ganges had passed away long years before the British administration supervened.

7. *The province of Orissa ceded to the British by the Bhonslas of Nagpur in 1803.*—During the 14th and the 15th centuries the Hindu kings of Orissa were successful in resisting the inroads of the Muslims and are said to have extended their dominions temporarily so far south even as the Pennar river: but their power then declined and their territories contracted. The last of these kings was overthrown in the latter half of the 16th century, and in the year 1592 Man Singh, Akbar's Hindu general, annexed Orissa to the Mogul Empire (the sea-board districts of the present Orissa division being included in that definition, but not the district of Ganjam). After entering into possession the Moguls had difficulty in retaining these rich rice lands against the cupidity of the Mahrattas, and in 1751 Ali Vardi Khan ceded the province to the Bhonslas of Nagpur in whose possession it remained until they in their turn ceded it to the British in 1803 under the treaty of Deogan which followed upon the decisive battles of Assaye and Argaum. During the time of their occupation the Mahrattas did not attempt to establish any settled form of administration, and their rule was confined to a periodic harrying of the country by their cavalry who extorted what they could from the people. Few Muslims and no Mahrattas remained to make Orissa the country of their adoption. The British occupation of Orissa was immediately followed by the submission of ten of the seventeen Orissa Tributary Mahals, the southern Garhjat States in which Oriya influence predominated. The remnants of the Mahrattas were pursued into the hills and defeated in Daspalla. The remaining chiefs of the Garhjats then gradually came to terms and entered into treaty engagements with the British Government. At no time since the three districts of Cuttack, Puri and Balasore came under British rule have they parted company. At first the " province " of Orissa was administered by two Commissioners. In 1828 it was split up into the three regulation districts of Cuttack, Puri and Balasore, and the non-regulation Tributary States, and then came to be administered from Calcutta jointly with Bengal. Until the formation of the provin-

of Bihar and Orissa in 1912 the Oriya portions of the Midnapore district were under the same administration as the adjoining Orissa districts.

8. *Sambalpur ceded at the same time, but direct administration not assumed till 1849.*—The Sambalpur district was ceded to the British by the same treaty of Deogan under which the Bhonslas of Nagpur had ceded the sea-board districts of Orissa proper, but it was not at once taken under the British administration. Sambalpur never fell to the Moguls when they annexed the sea-board of Orissa. For many years it remained under the rule of Rajput kings who with others of like position to themselves formed a cluster of independent and unruly states in that wild country. But Sambalpur lay across one of the highways from Central India to the east, and for that reason received in full measure the attentions of the Mahrattas who temporarily ousted the Rajput rulers, and then, as mentioned above, ceded the district to the British by the treaty of Deogan. The British, however, did not retain Sambalpur; they restored it to Raghuji Bhonsla, and there followed prolonged hostilities between the Rajput kings of Sambalpur and the Mahratta marauders. In 1826 the Mahrattas finally ceded Sambalpur to the British, who at first attempted to maintain the old line of Rajput rulers on the throne. It was not till 1849 that the administration of Sambalpur was finally taken over by the British on the death of the last Raja without male issue. The point then that deserves to be stressed is that, though the same treaty of Deogan ceded to the British both Sambalpur and the Orissa sea-board (separated from Sambalpur by numerous Feudatory States which retained the character it lost), at no recent time had there been any direct administrative contact between the two, other than that each was equally plundered by the Mahrattas, who in Orissa proper displaced the Moguls, while in Sambalpur with varying success they contested the fortunes of war with an ancient line of Rajput rulers.

Sambalpur was first administered as a part of the South-West Frontier Agency, directed from the headquarters at Ranchi in Chota-Nagpur. There was continuous trouble from 1857 for some years with a pretender to the *raj*, and in 1860 the district was temporarily transferred to the Orissa division of the Government of Bengal owing to the difficulty of its access from the North. In 1862 it was made over to the newly-constituted Central Provinces. Reference will subsequently be made to later changes in the administration of Sambalpur. It is intended at this stage to give only so much of the history of that district as may explain why it was from the first administered separately from the sea-board of Orissa. The South-West Frontier Agency, in which Sambalpur was first included, had been formed in 1833 after the suppression of the Kol rebellion, and at first comprised the greater part of what is now the Chota Nagpur division, followed later by Sambalpur and other tributary States. Apart from Sambalpur, British officers of the Agency came into contact with Oriya-speaking peoples in parts of Singhbhum and in some of the neighbouring States.

9. *The Northern Circars, including Ganjam and Vizagapatam, ceded by the Emperor Shah Alam in 1765.*—The fact that the numerous Oriyas who form part of the population of the northern half of the Ganjam district in the Presidency of Madras are administratively separated from the Oriyas of the sea-board to the north is perhaps a matter of greater concern to the promoters of a united Orissa than the separation of any other individual tract in which Oriya is spoken. Ganjam is known to have formed part of the ancient Kalinga which included Orissa proper; but Ganjam had been severed from Orissa of the Oriyas many years before the British came into touch with that district. In the 15th century the Gajapatis of Orissa still ruled in Ganjam; but in the second half of the 16th century, about the time when Man Singh annexed Orissa proper to the Mogul Empire, they were ousted by the Kutbshahi dynasty of Golconda; and for nearly two hundred years Ganjam was ruled from Chicacole by Muslims. The Moguls had annexed Puri, Cuttack and Balasore in 1592, but it was not till 1687 that the Mogul Emperor Aurangzeb compelled Golconda to acknowledge his authority, and only from that date were the governors of Chicacole, who ruled Ganjam, appointed by the Emperor's Subahdars of the Deccan. The Mahrattas, who ceded Orissa to the British, never ruled in Ganjam. The Chicacole Circar, one of the five Northern Circars, was given to the French in 1753 by the Moguls. The French general De Bussy was occupied with the siege of Madras, when Clive despatched Colonel Forde to the south with a force from Bengal. Forde defeated De Bussy's successor, and captured the French headquarters at Masulipatam in 1759. The Subahdar of the Deccan thereupon changed sides, and made a treaty with Forde agreeing to prevent the French from settling in those parts again. By this agreement, ratified by a *firman* from the Emperor Shah Alam in 1765 and a second treaty with the Subahdar in 1766, the whole of the Northern Circars were ceded to the British at Madras. Thus Ganjam was ceded to the British by the Moguls more than thirty years before the " province " of Orissa was ceded to them by the Mahrattas in 1803.

Vizagapatam, parts of which also are claimed by the Unionists of Orissa, equally formed part of the Northern Circars, and was ceded to the British jointly with Ganjam.

Ganjam and Vizagapatam have since remained together under the same administration, namely that of Madras.

10. *The Oriya-speaking tracts of the Midnapore district.*—There remain only the Oriya-speaking portions of the Midnapore district. Under the rule of the Afghans, Midnapore was included under the same administration as Orissa. The Moguls appear to have been the first to separate that district and Balasore from Cuttack and Puri and administer them from Bengal. Under British rule Balasore was again united with the essentially Oriya districts to the south, and Midnapore remained separate from the Orissa division, but, until 1912, under the same administration. It is a portion only of the Midnapore district which the Oriyas claim.

11. *The distribution of the Oriya-speaking tracts between the Governments of Bengal, the Central Provinces and Madras.*—These briefly were the circumstances in which the various Oriya-speaking tracts passed under the British administration. The position was early reached that—

(1) the districts of Cuttack, Puri, and Balasore, together with the Orissa Tributary Mahals (including Angul), formed the Orissa division under the Government of Bengal,

(2) the Midnapore district formed part of the Burdwan Division under the Government of Bengal,

(3) the Singhbhum district and the adjoining Feudatory States formed part of the Chota Nagpur division under the Government of Bengal,

(4) the Sambalpur district and the adjoining Feudatory States were administered by the Government of the Central Provinces,

(5) the Ganjam and Vizagapatam districts and their Agency tracts were administered by the Government of Madras.

12. *Sir Stafford Northcote suggests the separation of Orissa from Bengal, 1868.*—The first suggestion for a regrouping of territory affecting the Oriyas was made in 1868 by Sir Stafford Northcote. In 1866 Orissa had been visited by a severe famine and Sir Stafford Northcote cited this to indicate the greatly augmented demands that the outlying portions of Bengal made on the time and labour of those concerned in the government of the province. To relieve an overtasked administration he suggested the separation from Bengal of Assam, and possibly of Orissa also. The province of Assam was constituted in 1874; it was decided that Orissa should remain with Bengal.

13. *The Government of India propose the union of all the Oriya-speaking tracts within the province of Bengal, 1903.*—The whole question of the administrative treatment of the Oriya-speaking peoples came before the Government of India as a definite issue in 1903, in Lord Curzon's time, when the re-arrangement of provincial boundaries was being examined at length. A scheme was prepared by which the Government of India sought to attain three objects—

(1) to relieve the Government of Bengal of part of the excessive burden imposed on it and at the same time to make provision for the more efficient administration of some of the outlying districts of the province;

(2) to promote the development of Assam by enlarging its jurisdiction so as to give it an outlet to the sea, and, thirdly;

(3) to unite under a single administration the scattered sections of the Oriya-speaking population, and thereby to afford both to Madras and the Central Provinces some relief

from the difficulties arising from the great diversity of languages spoken in their existing jurisdictions.

The Government of India communicated their scheme to the Government of Bengal in Sir Herbert (then Mr.) Risley's letter No. 3678, dated the 3rd December 1903, the Governments of Madras and of the Central Provinces being addressed at the same time. This letter of the 3rd December 1903 addressed by the Government of India to the Government of Bengal is frequently quoted by leaders of the Oriya movement, and a copy is attached in Appendix III to this memorandum. The case of Orissa is discussed in paragraphs 10 to 15 of the letter. The Government of India recognised the Oriya-speaking group of peoples as a distinct and unmistakable factor, with an identity and interests of its own. After discussing the various arguments for and against a redistribution of the Oriya-speaking tracts the Government of India stated that they were disposed—

> "——to unite the whole of the Oriya-speaking peoples, both hill and plain, under one administration and to make that administration Bengal. In other words, they would add to Orissa the Oriya-speaking tracts of Sambalpur (615,941 Oriya-speaking people out of a total population of 829,698), and its Feudatory States; the Ganjam district (with the possible exception of one taluk in which Oriya is said not to be a prevalent language); and the Ganjam and Vizagapatam Agency tracts. Such a scheme would solve the question of language once and for all. This change would relieve both the Central Provinces and Madras of a troublesome excrescence upon their administrative system; and it would result in handing over the Oriya problem to one Government alone, on a scale and with a unity that would admit of its being treated with consistency and efficiency."

The Governments of Bengal and of the Central Provinces both agreed to the suggestion that the Sambalpur district (with the exception of the Chandarpur-Padampur estates and the Phuljhar Zemindari) and the five Oriya-speaking Feudatory States of Patna, Kalahandi, Sonpur, Bamra and Rairakhol should be transferred from the Central Provinces to Bengal, five Hindi-speaking States being transferred at the same time from Bengal to the Central Provinces. The Government of Madras, however, objected to making over to Bengal the Ganjam district and the Ganjam and Vizagapatam Agency tracts; they considered that, owing to the mixture of races, the transfer would give rise to serious difficulties connected with the linguistic and racial conditions and the geographical formation of the tract in question, that the judicial arrangements of those territories would be greatly complicated and confused by their transfer to Bengal, and that the administration of their peculiar land revenue system would be placed in the hands of officers who would have no acquaintance with the principles on which it is based

or with the language on which the bulk of its records are, and must continue to be maintained.

14. *The Sambalpur district added to the Orissa division of the province of Bengal, 1905; Ganjam and Vizagapatam remain in the Madras Presidency.*—The objections of the Government of Madras were upheld; the Oriya-speaking tracts of the Madras Presidency were left undisturbed. Effect was, however, given to the remainder of the Government of India's scheme. The proclamation of the 1st September 1905 attaching Sambalpur less the Chandarpur-Padampur estates and the Phuljhar Zemindari issued on the same date as the proclamation forming the new province of Eastern Bengal and Assam, and the transfer of the Oriya-speaking estates was carried out at the same time.

These changes fell short of the desire of the Government of India to unite all the Oriya-speaking peoples under the then Government of Bengal; but the transfer of Sambalpur marked an important stage in the amalgamation of these peoples. Owing to the administrative disadvantages of a multiplicity of languages in a province, the Government of India had in 1895 substituted Hindi for Oriya as the court-language of the Sambalpur district. In 1902, at the instance of Sir Andrew Fraser, they reversed that decision and restored Oriya in place of Hindi. By the changes of 1905 the district passed into the Orissa division of the Government of Bengal.

15. *The new Province of Bihar and Orissa constituted on the 1st August 1912.*—Six years later the Government of India addressed the Secretary of State in their despatch, dated the 25th August 1911, and submitted recommendations on the subject of transferring the seat of Government from Calcutta to Delhi, of reuniting the five Bengali-speaking divisions in a Presidency to be administered by a Governor in Council, and of creating a new province to consist of Bihar, Chota Nagpur and Orissa under the administration of a Lieutenant-Governor in Council. In Appendix IV to this memorandum a copy is given of paragraphs 11 and 20 of that despatch. On the subject of the Oriyas, the Government of India expressed themselves as follows:—

> "The Oriyas like the Biharis have little in common with the Bengalis, and we propose to leave Orissa, and the Sambalpur district, with Bihar and Chota Nagpur. We believe that this arrangement will well accord with popular sentiment in Orissa, and will be welcome to Bihar as presenting a sea-board to that province."

When these suggestions were being debated in the House of Lords on the 21st February 1912 they were subjected to severe criticism by Lord Curzon who was opposed to the decision to go back on what was described as the partition of Bengal which he had himself inspired. Lord Curzon expressed himself strongly on the treatment of Orissa, and his words, which are quoted below, have

frequently been used by Oriya leaders in support of their case. Lord Curzon spoke as follows:—

> "A word about the new province of Bihar, Chota Nagpur and Orissa. This province is made up of the non-Bengali leavings on the west of your new Bengal, and it is justified in your despatch on these grounds. The Government of India say that the Biharis do not like the Bengalis and would welcome separation. Very likely that is true. They say that it is in accordance with popular sentiment in Orissa, which certainly it is not, and will be welcomed in Bihar as giving Bihar a seaport. Of course, that is absolute nonsense. Calcutta is and always must remain the seaport of Bihar to which it is linked by two railways..... This province of yours has been drawn up without the slightest regard to the interests or views of the inhabitants, and you violate there every principle you have adopted in respect of Bengal. Take the Orissans. No one has paused to think what they want. You could not know because of your secrecy, and because you consulted no one in advance. They want the reunion of the Oriya-speaking people. They want to remain under Calcutta to which they have been attached so long..... If the Orissans were an agitating people, which they are not, they would soon make their protest heard."

In reply Lord Crewe expressed some surprise at Lord Curzon's statement that the people of Orissa would have preferred to be administered from Calcutta; he did not refer to the desire of the Oriya-speaking peoples to be united under a single administration.

The new province of Bihar and Orissa came into being on the 1st August 1912. The comparatively few Oriya-speaking people of the district of Midnapore remained under the Government of Bengal.

In paragraph 41 the joint authors of the Report on Indian Constitutional Reforms made the following comment on this territorial redistribution:—

> "The attachment of Orissa to the rest of the province was dictated by the need of providing for areas which the new presidency could not absorb, rather than by considerations of convenience or economy."

16. *Memorials of Oriya residents of Ganjam for inclusion in the new province rejected by the Government of India.*—In the meantime, the movement among the Oriyas for the amalgamation of all the Oriya-speaking peoples had been growing in strength. Their claims were consistently pressed by the Utkal Union Conference which had been formed in 1903 and met annually. At the time when the province of Bihar and Orissa was being formed, memorials were submitted to His Excellency the Viceroy by Oriya inhabitants of Ganjam and Vizagapatam asking that "His Excellency in Coun-

cil should be pleased to unite the Oriya-speaking tracts of Madras with Orissa by placing them under the new province of Bihar, Chota Nagpur and Orissa, a measure which will remove the long-standing genuine grievances of the Oriya community now placed under different Governments, and earn the ever-lasting gratitude of the vast Oriya-speaking community." In sending on these memorials the Government of Madras adhered to the objections which they had expressed in 1904, and which had been accepted by the Government of India. In reply to their request the memorialists were informed in 1912 that the Governor General in Council was unable to regard the transfer of the Oriya-speaking tracts of the Madras Presidency as desirable or necessary.

III.

17. *Address presented to the Viceroy and the Secretary of State by the Utkal Union Conference in 1917.*—Mention has already been made of an address presented to His Excellency the Viceroy and to the Secretary of State in November 1917 by representatives of the Utkal Union Conference, a copy of the address being attached in Appendix II to this memorandum. In 1912 the Oriyas of Ganjam had asked to be placed under the administration of the new province of Bihar and Orissa, and stated that this would satisfy their desires. The leading Oriya gentlemen, who addressed Lord Chelmsford and the late Mr. Montagu, proceeded a step further and voiced the claims of the Oriyas in the following terms—

(1) that the Oriya-speaking tracts (which the memorialists defined) should be brought together under one separate administration of the type which Bihar and Orissa now has, or

(2) that, if it be not feasible in the present circumstances to organize a separate administration for the Oriya-speaking tracts, the proposed united Orissa be placed under the Government of Bihar and Orissa for the present with a view that it may, at a future time, develop into a separate administration.

In addition, the memorialists asked that, if the Oriya-speaking tracts were included in the province of Bihar and Orissa, they should be given representation in the legislatures, and on the University of the province, which would ensure to them a status equal to that of Bihar, to which they should not be subordinate. By this request these representatives of the Utkal Union Conference made clear the object which they, as Oriyas, had before them. Their object was to obtain for the Oriya-speaking tracts a separate administration of their own: if that could not be obtained at once, they wanted amalgamation under the Government of Bihar and Orissa as a step in the direction of obtaining a completely separate Oriya administration in the future.

18. *The comment made in paragraph 246 of the Report on Indian Constitutional Reforms.*—The special mention of Orissa in

paragraph 246 of the Report on Indian Constitutional Reforms indicates that the joint authors were impressed by the claims to amalgamation made to them by the Oriya representatives. It will be remembered that, in that paragraph of their report, the joint authors declined, to use their own words, " to unite the sufficiently difficult task of revising the constitution of India with the highly controversial labour of simultaneously revising the political geography of the entire country ". After expressing their general opinion that in their belief the business of government would be simplified if administrative units were smaller and more homogeneous, the joint authors added—

> " We believe emphatically that redistributions of provincial areas cannot be imposed upon the people by official action; and that such a process ought, in any case, to follow, and neither to precede nor accompany constitutional reform. But we are bound to indicate our own clear opinion that, wherever such redistributions are necessary and can be effected by process of consent, the attempt to do so should be made; and therefore we desire that it should be recognised as one of the earliest duties incumbent upon all the reformed Provincial Governments to test provincial opinion upon schemes directed to this end. In Orissa and Berar, at all events, it seems to us that the possibility of instituting sub-provinces need not be excluded from consideration at a very early date."

The spokesmen of the Oriya movement had adopted a separate Orissa province as their objective; short of that objective, but only as a means to the same end, they wanted the temporary amalgamation of all the Oriya-speaking tracts under the Government of Bihar and Orissa. The remedy suggested by the joint authors as a possible solution, but one upon which provincial opinion should be tested, was that the Oriya-speaking tracts might be administered as a sub-province.

19. *Mr. Sinha's resolution moved in the old Imperial Legislative Council on the 20th February 1920.*—The whole question of the future treatment of Orissa was shortly afterwards raised in the old Imperial Legislative Council on a resolution moved by the Hon'ble Mr. Sachchidananda Sinha on the 20th February 1920 to the effect that—

> " ——a mixed committee of non-officials and officials be appointed to formulate a scheme for the amalgamation of the Oriya-speaking tracts at present administered or controlled by the Governments of Madras, Bengal and the Central Provinces with the existing Orissa division of the province of Bihar and Orissa."

When moving his resolution Mr. Sinha, himself a Bihar representative on the Council, explained that he was doing so in response

to a request made to him personally by the Utkal Union Conference. He stated that the people of Bihar had no objection either to the amalgamation of the Oriyas under one administration, or, if need be, to the separation of the Oriya tracts from Bihar and their formation into a separate province; in his resolution he recommended amalgamation under the province of Bihar and Orissa, because that was the most simple scheme to start upon and the more likely to be accepted by Government. He therefore suggested the appointment by Government of a mixed committee to investigate the problem. No special reference was made to the possibility of forming a sub-province.

The resolution received considerable support in the house and among those who spoke in favour of it was the late Sir Surendra Nath Banerjea. Sir B. N. (then Mr.) Sarma, a representative from the Madras Presidency, was more critical. He stated that if the mover had asked for a separate province for the Oriyas, he would gladly have supported him, though in his opinion a resolution to that effect would have been premature, since it was a matter for the reformed Councils, or rather for the Oriya representatives in the reformed Councils of the four provinces to say what form of Government they required. On the other hand, he did not think that the amalgamation of all Oriya-speaking tracts under the Government of Bihar and Orissa was likely to benefit the Oriyas. The great majority of the Oriya-speaking peoples were already under that government: the addition of one or two millions of Oriyas would not materially affect their position in the province, since they would still remain in a minority. Mr. Sarma took exception to a statement made by the mover that the Chicacole taluk was the only Telugu-speaking taluk in the Ganjam district, and considered that the Oriyas of the Madras Presidency were as well looked after by the Government of Madras as the Oriyas of Bihar and Orissa by the Government of that province. On these grounds, though he favoured a linguistic redistribution of provinces, Mr. Sarma withheld his support from the resolution before the House.

Speaking on behalf of the Government of India, the Home Member quoted the observations of the Joint Select Committee of Parliament on clause 15 of the Government of India Bill to the effect that no change in the boundaries of any province should be made without due consideration of the views of the Legislative Council of that province, and stated that it was an essential feature of the scheme of reforms that territorial redistributions should be postponed until the reformed Councils came into being. He cited opinions expressed by Sir Gangadhar Chitnavis and Mr. Sastri on a resolution moved on the 6th February 1918 by Sir B. N. Sarma, that the linguistic test was not the sole consideration; political, historical and commercial connections had to be taken into account. Though the Government of India sympathised with the aspirations of the Oriyas, they must await expressions of opinion by the provincial Legislative Councils before they could consider the appointment of a committee to investigate the problem: Government were

unable, therefore, to accept the resolution. However, in concluding his speech Sir William Vincent gave the Council the following assurance—

> "I am quite prepared, however, if I can secure the sanction of His Excellency in Council to this course, to have a full investigation of the facts to ascertain the views of the local Governments, and prepare such materials for the use of the new Governments as may assist them in arriving at a just decision in this matter."

On receiving this assurance Mr. Sinha withdrew his resolution: and it is from this assurance that the subsequent official discussions initiated by the Government of India of the complex and difficult problems of the amalgamation of the Oriya-speaking peoples derive. The attention of the Governments of Madras, Bihar and Orissa, Bengal and the Central Provinces was drawn to the debate; they were asked to ascertain the wishes of the people affected by the proposal, to investigate the problems raised, and to express their views. It is not intended to burden this memorandum with a complete statement of the information collected as a result of this reference. The salient points in the replies of the provincial Governments, which were received in the course of the year 1922, are briefly summarized in the succeeding paragraphs.

20. *The views expressed by the Government of Madras in 1922.*—The Government of Madras reported that they had received a number of communications from the Telugu inhabitants of the Ganjam district protesting against the transfer of territory from that district; on the other hand the majority of the Oriya residents in the Madras Presidency, who were capable of expressing their wishes, desired to be included under a separate administration. A notable exception was the Raja of Jeypore, whose estate covered practically all the Oriya-speaking tracts outside the Ganjam district, and who was decidedly opposed to the separation of the whole or any part of his estate from the Madras Presidency with which the estate and his family had been connected ever since the British assumed control.

The attention of the Government of India was drawn by the Government of Madras to a resolution, moved by an Oriya member in the Madras Legislative Council on the 15th December 1921, recommending the appointment of a committee of officials and non-officials to advise the Government of Madras on the reply to be given to the Government of India on the subject of amalgamating the Oriya-speaking tracts under one administration. The mover stated that his main object was to stimulate discussion, and he withdrew his resolution on a promise given by the Home Member that the information collected would be published for criticism.

The Government of Madras stated that in the meantime they reserved their opinion. Subsequently they reported that though five months had elapsed since they had published the information, which they had collected, no criticism of any kind had been received

by the Government. This fact in itself appeared to the Governor-in-Council to be strong evidence of the absence of any general desire on the part of the Oriyas of the Madras Presidency for amalgamation with other areas in which the Oriya language is spoken. The Government of Madras then referred to certain administrative objections, for instance the distribution of other languages within the Oriya-speaking tracts of the Madras Presidency; the intimate relation between the forest areas and the rivers of the plains; and the absence of communications to the east and north. Lastly there appeared to the Government of Madras to be strong financial objections to forming a province consisting only of the Oriya-speaking tracts; they stated that the cost of the administration of the Agency tracts amounted annually to a sum of about Rs. 30 lakhs, of which only a small part was met by revenue from that area.

The Government of Madras then expressed the opinion that they did not consider that it would be to the advantage of the country as a whole to transfer the Oriya-speaking tracts of the Madras Presidency either to an Oriya province or sub-province or to the province of Bihar and Orissa. They did not consider that a commission of enquiry to go into the whole question would justify the expenditure which would be involved.

In expressing this view the Government of Madras are seen to have adhered to the objections which they had successfully pressed in 1905 to the transfer of any territory from the Madras Presidency wih a view to the amalgamation of the Oriya-speaking tracts.

21. *The views expressed by the Government of Bihar and Orissa in 1922.*—The question of amalgamating the Oriya-speaking tracts had been discussed in the Bihar and Orissa Legislative Council on the 25th November 1921, and in reply to the reference made to them by the Government of India, the Government of Bihar and Orissa submitted a copy of the debate. The resolution, which was moved by an Oriya member, was in the following terms:—

> "This Council recommends to His Excellency the Governor-in-Council that he may be pleased to recommend to the Government of India and to the Secretary of State that the Oriya-speaking tracts existing under the four provincial Governments, namely, Bihar and Orissa, Madras, Bengal and the Central Provinces, be united under one Government."

The mover was able to speak English, but obtained the permission of the President to move his resolution in the Oriya language. He was followed by Sir Havilland (then Mr.) Le Mesurier who intervened at an early stage in the debate to explain the attitude of the Government of Bihar and Orissa. He said that Government had no difficulty in accepting the spirit of the resolution since they were aware of the very wide-spread and deep-seated feeling among the Oriyas in favour of amalgamation. Unfortunately there were differences of opinion among the supporters of the movement, some asked for a separate province of their own; others that the Oriya-

speaking tracts should be amalgamated under one Government. Taking the second suggestion first, Government could not but be conscious that there were considerable administrative difficulties in adding all Oriya-speaking tracts to the province of Bihar and Orissa which would be involved in a further multiplication of land revenue and tenancy systems foreign to the province in which there were already no less than six tenancy laws. Where Oriya-speaking and Telugu-speaking peoples were intermingled, there would follow further language difficulties; and financial considerations would also require to be taken into account. If, however, they were satisfied that there was a strong wish on the part, for instance, of the inhabitants of the Ganjam district to be united with the province of Bihar and Orissa, the local Government would be prepared subject to the opinion and advice of the Council to do their best to meet the difficulties involved. The first matter to be decided was whether in fact the outlying tracts did wish to be united with the Oriya-speaking tracts now comprised in the province of Bihar and Orissa. The question of forming a separate Oriya province had not been considered by the local Government, and until Oriya opinion outside the province had been ascertained, the matter could scarcely be said to arise for consideration.

The resolution was supported not only by Oriya members, but by a number of members of the Council elected by Bihar constituencies who, however, made it clear that while they realised that in course of time a united Orissa might claim separation from Bihar, they could only contemplate with grave misgiving the possible financial effect of such separation both on Orissa and on the rest of the existing province. The mover declined to accept an amendment to the effect that the Oriya-speaking tracts should be amalgamated under the Government of Bihar and Orissa; and in concluding the debate, when he spoke in English, stated that what the Oriyas wanted was amalgamation: the manner in which such amalgamation should be reached was a question to be decided by a committee to be appointed for the purpose. The resolution was adopted without a division.

The Government of Bihar and Orissa also informed the Government of India of the results of the enquiries they had themselves made to ascertain the wishes of Oriyas living within the province of Bihar and Orissa. They found that within the Orissa division educated opinion was strongly in favour of the reunion of the Oriya-speaking tracts under one administration; Hindu and Christian opinion was practically unanimous on the subject, while Muslim opinion was somewhat adverse; the Muslims, however, formed only a small section of the people of Orissa. The local Government were not in a position to express any opinion as to the manner in which the matter was viewed by Oriyas outside their jurisdiction; they could not therefore express any useful opinion on the subject of amalgamation. They suggested that after complete material had been collected, it should be forwarded to the local Government for a final expression of their opinion after consultation with their

Legislative Council; they contemplated that a committee might be required to make recommendations as to the best way in which to overcome administrative difficulties. With reference to the claims made by the Oriyas that the Singhbhum district of the Chota Nagpur division should be treated as an Oriya-speaking district, the Governor in Council stated that, while there was no strong reason for uniting Singhbhum with Orissa, there were definite reasons against it, and he believed that the project would be entirely contrary to the wishes of the great majority of the inhabitants.

22. *The views expressed by the Government of the Central Provinces in 1922.*—The Government of the Central Provinces reported that in the Padampur estate of the Bilaspur district, where the number of Oriya-speakers is 76 per cent. of the total population, and in the Chandarpur estate of the same district, where their proportion is only 3·6 per cent., there was no general demand for amalgamation with Orissa or for separation from the Central Provinces; the Oriya tracts in the Bilaspur district suffered from no serious disability; Oriya is taught in all the schools, with Hindi as an optional subject in the two higher classes. In the Phuljhar zemindari estate of the Raipur district the Government of the Central Provinces found that though there was a considerable body of Oriya opinion in favour of the transfer of the estate to Orissa, it was largely the outcome of the recent Oriya agitation; if the zemindari were to be transferred, the remaining half of the population would suffer from the same disabilities of which the Oriyas complained: on the other hand, the Governor in Council considered that there was a *prima facie* case for transferring the Khariar zemindari estate of the same district in which the Oriya population amounted to 77 per cent. of the whole and filled a compact area. (From this expression of opinion the Government of the Central Provinces subsequently resiled.) On the general question of the amalgamation of the Oriya-speaking peoples, the Government of the Central Provinces expressed the view that the proposal required full consideration by the reformed Councils, and that no definite steps should be taken unitl the whole matter had been fully ventilated.

23. *The views expressed by the Government of Bengal in 1922.*—The Government of Bengal was interested only to the extent of the Oriya-speaking portions of the Midnapore district and reported that these tracts were very irregularly spread over six police stations in which the language spoken was a mixture of Bengali and Oriya, and differed considerably from the language of Orissa. The inhabitants, owing to their long residence in Bengal, differed in their manners and customs from the inhabitants of Orissa proper, and had no desire to be separated from Bengal. The Government of Bengal observed that the census figures of the Oriya-speaking peoples in the Midnapore district could not be accepted as entirely reliable. The district magistrate had noted that the irregularity in their distribution might be due to the influence of individual

supervisors and enumerators, and stated that, when it became known that the census statistics of 1921 might be used as an argument for the transfer of portions of the district, the Oriya inhabitants in some places, having no wish to go over to Orissa, seemed to have returned their language as Bengali.

24. *The Philip-Duff Enquiry Report, 1924.*—After an examination of the material which had been collected, the Government of India decided that further steps should be taken to ascertain precisely the attitude of the Oriya-speaking peoples resident in the Madras Presidency. They felt that the absence of criticism of the information collected and published by the Government of Madras was not conclusive evidence that there was no genuine desire for amalgamation on the part of the Oriyas in that Presidency. It was, therefore, arranged that local enquiries should be made by two officers, one to be appointed by the Government of India, the other to be appointed by the Government of Madras. The Government of India undertook to meet the expense of this enquiry, and the budget provision made in the estimates for 1924-25 was voted by the Assembly. The officers selected for the enquiry were Mr. C. L. Philip, I.C.S., nominated by the Government of India, and Mr. A. C. Duff, I.C.S., nominated by the Government of Madras. The instructions which they were given were comprised in a Resolution of the Government of India, No. F.-669, dated the 1st October 1924, and were to the effect that they should " make detailed enquiry on the spot regarding the attitude of Oriya inhabitants of the Madras Presidency towards the question of the amalgamation of the tracts inhabited by them with Orissa ". Their enquiry was begun in October and completed in December 1924. In paragraph 12 of their report, which is attached as Appendix V to this memorandum, these two officers stated their conclusions in the following words:—

> " Our enquiry has shewn that there is a genuine long-standing and deep-seated desire on the part of the educated Oriya classes of the Oriya-speaking tracts of Madras for amalgamation of these tracts with Orissa under one administration. By many we have been informed that it is immaterial whether that administration be Bihar and Orissa, Bengal, or Madras; on the other hand, there is a distinct tendency on the part of some to regard amalgamation as a preliminary to the formation of a separate Orissa."

They added—

> " It seems doubtful whether the masses have had knowledge of the question for any length of time, and it is probable that the enthusiasm, which manifested itself in many of the villages we passed through, was the result of propaganda started just before our arrival by the Vizagapatam and Ganjam Amalgamation Committee which, through local branches and volunteers, organized demonstrations and collected signatures throughout the country to petitions for amalgamation. But however that may be, it

is unquestionable that wherever the Oriya raiyats have learned something of the matter, they are entirely in favour of amalgamation."

25. *The comments of the Government of Madras on the report.*—On the publication of the Philip-Duff Enquiry Report the Government of Madras were again asked for an expression of their views. After some preliminary comment on the difficulties inherent in any linguistic redistribution of provinces, the Government of Madras stated that the report prepared by Mr. Philip and Mr. Duff gave the Governor in Council no reason to change the views expressed in 1922.

The case for the Vizagapatam district required to be dealt with separately from that of Ganjam. Practically all the Oriya-speaking population of the Vizagapatam district reside in the Jeypore estate; but the Oriyas are by no means a majority in the population of that estate, and those who do not speak Oriya are either distinctly Telugu or, whatever their language, have no special affinity with the Oriyas. The Maharaja of Jeypore was strongly opposed to any transfer, and the enquiry had not disclosed any intelligent or consistent expression of opinion, even among the Oriya-speaking inhabitants, in favour of amalgamation with the Orissa districts. The condition of the country and of the communications was such that the only natural outlet was towards Vizagapatam. The Governor in Council concluded that in his opinion there was no ground whatever for the transfer of any part of the Vizagapatam district to the province of Bihar and Orissa, and that the effect of any such transfer would be disastrous.

The case for the Ganjam district stood on rather different ground because there were parts of it which might possibly be transferred to Orissa without any very detrimental effect on the population, provided that the area to be transferred was carefully selected and restricted; but the Governor in Council was unable to see that any positive advantages could be gained by such a course. The Government of Madras considered that the value of the enquiry made by Messrs. Philip and Duff was much discounted by what they described as a defect in the terms of reference given to them in that they were required to ascertain the views only of the Oriyas, and not of the other elements in the local population, whose views they were unable to take into account. The Government of Madras stated that the area in which the Oriyas largely predominated was small, and with the possible exception of the part lying between the left bank of the Rushikulya river and the Orissa border was inextricably intermingled with areas predominantly Telugu. The Government of Madras then recounted the following obstacles which in their opinion made the transfer of any portion of the Ganjam district undesirable—

(*a*) there is no intimate relationship between the Oriyas of Ganjam and the Oriyas of Orissa. In manners and customs, and even in language both spoken and written, there are considerable differences;

(*b*) there is no separate or distinct portion of the district which is peopled entirely by Oriyas. Even in parts of the district where as many as 75 per cent. of the population speak Oriya, Oriya-speaking villages were intermingled with others in which only Telugu is spoken;

(*c*) the statistics of language are misleading. Telugu people living in villages more largely populated by Oriyas may be obliged to speak Oriya, but they are not Oriyas and should not be so classified;

(*d*) the aboriginal tribes in the Agency tracts of the district have no linguistic or ethnic affinities with the Oriya population;

(*e*) the mass of the Oriya population of Ganjam is not sufficiently advanced to be competent to judge where its interests lay.

In paragraph 10 of their report Messrs. Philip and Duff had enumerated certain grievances represented by the Oriyas in the Madras Presidency. The Government of Madras stated that they were taking steps to palliate their disabilities as far as practicable notably with reference to the use of the Oriya language in public offices and the employment of Oriya officials in the public service. They considered that the practical solution of the problem lay in further improving existing conditions, and not in creating fresh difficulties by amalgamation with a population and with an administration with which the Oriyas of the Madras Presidency were unfamiliar. The Governor in Council considered therefore that the balance of advantage was wholly on the side of leaving things as they are, and added that the Madras Ministers fully concurred in that view.

26. *Suggestions made by the Government of India to provide a basis for further discussion.*—As a result of the correspondence with provincial Governments and the local enquiries made by Messrs. Philip and Duff a considerable amount of material had now been collected by the Government of India on the various issues relevant to the problem of the amalgamation of the Oriya-speaking peoples. The next step was to sift the material in order to facilitate progress towards an ultimate decision. One of the difficulties of the case was the absence of unanimity on the part of the Oriyas themselves. It was apparent that some leaders would be satisfied with nothing less than a wholly separate Oriya administration; others would accept amalgamation but only as a step towards a separate province; the mover of the resolution in the Bihar and Orissa Council declined to commit himself to amalgamation with the province of Bihar and Orissa, though that had been the request of the Oriyas of Ganjam in 1912 and was the specific proposal in the resolution moved in the Imperial Legislative Council in 1920 by Mr. Sinha. The Government of India hoped, in these circumstances, to simplify the issues by placing certain definite suggestions before the provincial Governments merely as a basis for further discussion, and to assist towards the formulation of definite conclusions on, at any rate, some

aspects of the problem. The suggestions so made took the following form—

(*a*) that the issue immediately under consideration should not be the formation of a separate province, but the amalgamation of the Oriya-speaking tracts of the four provinces of Bihar and Orissa, Madras, the Central Provinces and Bengal within the existing province of Bihar and Orissa;

(*b*) proceeding on this assumption the Oriya-speaking tracts in the Bengal Presidency might, in view of the opinions expressed by the Government of Bengal, be left out of consideration;

(*c*) similarly of the tracts in the Central Provinces, those situated in the Bilaspur district might be left out of consideration, but the possible transfer of the Phuljhar and Khariar zemindari estates from the Raipur district to the province of Bihar and Orissa should be further examined by the Government of the Central Provinces; and

(*d*) of the tracts in the Madras Presidency those in the Vizagapatam district might be left out of consideration, but the possible transfer of ten specified taluks of the Ganjam district should be further examined by the Government of Madras, and the wishes of the Telugu inhabitants in three other taluks in that district ascertained;

(*e*) simultaneously, the implications of the possible addition of these particular territories from the Central Provinces and the Madras Presidency should be examined by the Government of Bihar and Orissa.

These suggestions were communicated to the three Governments of Bihar and Orissa, the Central Provinces and Madras, the issues on this occasion being in this manner more precisely defined than on the occasion of the reference previously made to them in 1920.

27. *The views expressed by the Government of the Central Provinces in 1926.*—The Government of the Central Provinces reported that they had no hesitation in supporting the opinions which they had expressed in 1904, and again in 1922, that the Phuljhar zemindari estate, which had formed a part of the original Sambalpur district when that district formed part of the Central Provinces, should not be transferred. The zemindari was bound to the Central Provinces by its land revenue system, and by its trade which remained in the direction of Raipur: with the completion of the Raipur-Vizianagram railway, the interests of the estate would be still more closely connected with the Central Provinces; though the estate contained a population nearly half of which spoke Oriya, it distinctly belonged to the Hindi-speaking tract of Chhattisgarh.

The Governor in Council now found himself unable to accept the view previously expressed that there was a *prima facie* case for the

transfer of the Khariar zemindari estate. He considered that undue weight had been attached to purely linguistic considerations, and preferred to judge the matter on grounds of economic and administrative convenience; in any case the statement that 77 per cent. of the population was shown at the last census as Oriya-speaking required to be qualified by the fact that the Oriya spoken in that estate was gradually melting into Chhatisgarhi Hindi; when the transfer of the Sambalpur district from the Central Provinces to Bengal was under consideration in 1904, it had been pointed out that the hills which separated the Feudatory State of Patna from the Khariar zemindari estate formed a natural boundary, and the separation of the zemindari from the other zemindari estates of the Raipur district of which Khariar was the admitted head had been strongly opposed; the same considerations which made it desirable to retain Phuljhar in the Central Provinces applied equally to Khariar.

With the receipt of this reply it was clear that the Government of the Central Provinces were finally opposed to the further transfer of any Oriya-speaking tracts from the Central Provinces to the province of Bihar and Orissa.

28. *The views expressed by the Government of Madras in 1926.* —In reply to this further reference the Government of Madras adhered very strongly to the objections which it had maintained in 1904, in 1922, and in 1925 to the transfer of any portions of the Madras Presidency. As requested by the Government of India the Government of Madras supplied a statement showing the revenue collected in the Ganjam district with separate figures for the Chicacole taluk, which was almost exclusively Telugu, and for the Parlakimedi, Tekkali and Sompeta taluks, which also had not been included in the ten taluks provisionally suggested as possibly suitable for transfer, together with figures of the local expenditure incurred in the Ganjam district. A copy of this statement is enclosed in Appendix VI to this memorandum. The Government of Madras took the opportunity at the same time to put forward certain financial claims which they would press in the event of the ten taluks being transferred—

(*a*) they stated that they had at stake a sum of approximately Rs. 47½ lakhs capital expenditure on the Rushikulya irrigation system on which they paid Rs. 1,57,134 annually to the Government of India on advances included in that outlay;

(*b*) they valued their Public Works Department buildings in the ten taluks at approximately Rs. 10 lakhs and claimed reimbursement;

(*c*) more than Rs. 4 lakhs had been spent on the Russellkonda Saw Mill, the greater part of which had been met from loan funds on which interest had to be paid. The reimbursement of this capital expenditure was also claimed.

In conclusion, the Government of Madras stated that the views of the Governor in Council were shared by the Hon'ble Ministers, one

of whom, being a native of the Ganjam district and one of its representatives in the Legislative Council, was in a position to speak with special authority.

29. *The views expressed by the Government of Bihar and Orissa in 1926.*—The Government of Bihar and Orissa accepted the conclusion of the Government of the Central Provinces that no area should be transferred from the Central Provinces to Bihar and Orissa. With regard to tracts in the Ganjam district the Government of Bihar and Orissa stated that the administrative difficulties involved could not be accurately foreseen by themselves; the question was not one merely of Oriya sentiment; the balance of power among the communities of Bihar and Orissa would be materially changed; it would add to the power of the Oriya group in the Legislative Council, and would increase the Hindu majority.

On one material aspect of the case the local Government held a decided view that there should be no transfer to the province of territory which did not reasonably pay its own way. They had seen the figures prepared by the Government of Madras and were examining them. In the meantime their attitude was that, on the assumption that the area of the Ganjam district suggested as possibly suitable for transfer were self-supporting, then subject to a detailed examination of the financial consideration and subject to the views of the Bihar and Orissa Legislative Council, the Governor in Council was prepared to agree that the whole of the Ganjam district might suitably be transferred less the Chicacole, Parlakimedi, Tekkali and Sompeta taluks.

30. *Resolution moved in the Assembly on the 8th February 1927 by Pandit Nilakantha Das.*—This was the stage reached in the official correspondence when a resolution was moved in the Legislative Assembly on the 8th February 1927 by Pandit Nilakantha Das representing the Orissa division of the province of Bihar and Orissa. The resolution was in the following terms—

> "That this Assembly recommends to the Governor General in Council to be pleased to take immediate steps to put, or publish the schemes of putting, all Oriya-speaking tracts under one local administration."

The debate disclosed wide differences of opinion even among those who supported the amalgamation of the Oriya-speaking peoples. The mover stated that nothing less than a separate province of their own would satisfy the Oriyas; if they were merely attached to one local administration the agitation would still continue: if tacked on to any province not their own, he thought it better for Oriyas to be joined to the Central Provinces in which they might exercise greater influence than in Bihar. An amendment was moved by a Bihar member to the effect that the Oriya-speaking tracts should be amalgamated with the Orissa division of Bihar and Orissa. The mover of this amendment did not object to a separate province, but thought that its financial resources might be inadequate. He was followed by a member from the Central

Provinces who considered that if financial objections ruled out a separate province, the Oriya-speaking tracts should be attached to Bengal. An Oriya member, who took part in the debate, foresaw difficulties in the formation either of a province or of a sub-province, and suggested the union of all Oriya-speaking tracts, including portions of the Singhbhum district under a Commissioner of Orissa under the Government of Bihar and Orissa. A Madras member claimed that amalgamation should be with Madras, and a member from Bengal claimed that the Oriyas are more akin to Bengalis than to Biharis. A member from the Central Provinces stated that he had no objection to the amalgamation of the Oriya-speaking tracts, but they should not include the Phuljhar and Khariar zemindari estates of the Central Provinces. A Muslim member of the United Provinces stated that he was authorized to speak on behalf of the Bihar Provincial Muslim League which was opposed to the amalgamation of all the Oriya-speaking tracts with Bihar.

The Home Member, who had recently visited Orissa, informed the House that enquiries were still being pursued on the official side, and that the Governments both of the Central Provinces and of the Madras Presidency objected to any transfer of territories under their jurisdiction, while the Government of Bihar and Orissa wished to be assured that any territories which might be transferred to them should be financially solvent. He stated that, as a matter of practical politics, he thought that they must reject for the moment any idea of a separate administration for Orissa, and the question really to be decided was what could be done in the way of smaller modifications. He commented on the differences of opinion disclosed in the debate, and stated that when Government had to choose between the numerous conflicting views on the fate of Orissa, it should be after the consideration of discussions in the local Legislative Councils. It was only when replying to the debate that the mover had made it clear that, even if that object could not be at once attained, his real demand was that Orissa should be constituted into a separate administration. In the meantime the transfer of particular Oriya-speaking tracts must necessarily be a matter largely of administrative and financial convenience. He expressed his sympathy with the aspirations of the Oriyas, and stated that he felt that the present position was not altogether satisfactory. Speaking personally, and not on behalf of the Government of India, he stated that if financial investigation showed that territories could be conveniently transferred, he would himself be in favour of such transfer, the province to which the transfer should be made being decided by administrative reasons.

An Oriya member then suggested that Government might appoint a small committee consisting of official and non-official members to examine the financial aspects of amalgamation. The Home Member was unable to accept this suggestion, but said that a copy of the debate would be forwarded to the local Government, that is to say, the Government of Bihar and Orissa, in order that the suggestion might be considered by them.

The resolution and the amendment were both withdrawn.

31. *The Government of Bihar and Orissa report the results of their financial enquiries.*—Shortly afterwards the Government of Bihar and Orissa forwarded, for the information of the Government of India, a copy of a note on the revenue and expenditure of the ten taluks of the Ganjam district suggested as possibly suitable for transfer, prepared by one of their officers who had visited the district with the permission of the Government of Madras. A copy of this note is included in Appendix VII to this memorandum. The Government of Bihar and Orissa commented that the salient facts disclosed were as follows—

(*a*) the average annual deficit on these taluks is Rs. 11¼ lakhs;

(*b*) there are outstanding loans of over half a crore;

(*c*) the items of income did not appear capable of any large expansion in the near future;

(*d*) like other parts of Orissa the taluks are liable both to flood and to famine;

(*e*) several branches of the administration require development.

They added that the income of the present Orissa division was barely sufficient to meet the ordinary recurring charges; the addition of these taluks from Madras would throw a heavy financial burden on the province; without an assignment of revenue from the Government of India of not less than the anticipated deficit on any area transferred, the Governor in Council could not agree to the transfer, nor was it likely that the Legislative Council would agree to a change which would both prejudice the provincial finances and add to the voting strength of an element whose interests would not always be identical with those of the rest of the province.

The Government of Bihar and Orissa commented that there was no likelihood that an increase in the area of the Orissa division would, in itself, satisfy the Oriyas, who would continue to press for complete or partial separation. If therefore the Government of India were to agree to an assignment, it might be calculated on a scale to cover the cost of a partial separation of the Orissa administration so far as the transferred subjects were concerned; it was not, however, worth while to pursue this suggestion until the practicality of the general question of a grant for Orissa from central revenues had received a favourable decision.

32. *The Governments of Bihar and Orissa and of Madras addressed; the next step is left with the provinces.*—The Home Member had stated in the debate in the Legislative Assembly that when Government had to choose between conflicting views as to the fate of Orissa, it should be after it had considered discussions in the local Legislative Councils. With the receipt of the Government of Bihar and Orissa's letter, it was apparent that the Government of India could not carry the case further by official correspondence. The Governments of Bihar and Orissa and of Madras were informed to that effect and it was suggested that they should place themselves in a position to define their own attitude in the event of the

question being locally raised. These two Governments had, however, made different financial claims, one at least of which was made against central revenues. On those claims the Government of India communicated the following general conclusions—

(*a*) in the present status of relations between the central and provincial governments, the transfer of certain taluks of the Ganjam district of the Madras Presidency to the province of Bihar and Orissa could in no circumstances be accepted as imposing any new financial liability whatsoever on central revenues;

(*b*) such transfer might so affect the general financial position of the province of Bihar and Orissa as to make a revision of the Meston settlement a matter for consideration, but in the view of the Government of India such revision could be based only upon a survey of the whole provincial position, and probably should not be attempted in advance of any arrangements which the Statutory Commission might effect;

(*c*) if the Government of Bihar and Orissa were required to take over the liabilities of any area transferred they could not be expected to pay for the assets. Public Works buildings are an important item in the assets, and should, in the opinion of the Government of India, be transferred free of cost;

(*d*) the Government of India agreed with the Government of Madras that the Government of Bihar and Orissa would become liable for the capital and interest in respect of money invested by the Government of Madras in irrigation projects in any territory that might be transferred; and

(*e*) loans to cultivators in transferred territory should be debited to the Bihar and Orissa Loan Account, and a corresponding credit made to the Government of Madras.

In view of the financial enquiry which they had themselves made, it seemed unlikely that the Government of Bihar and Orissa would wish to appoint a financial committee of the type suggested in the debate in the Legislative Assembly; in accordance, however, with the assurance given by the Home Member the suggestion was brought to their notice.

With the issue of these communications to the Governments of Bihar and Orissa and of Madras, the next step in the more detailed investigation of the problem lies with the provinces. The general considerations which seem likely to govern such an investigation have been described in the introductory note on claims which have been made to redistributions of provincial territories as a racial or linguistic basis separately presented to the Commission.

APPENDIX 1.

LINGUISTIC MAP INDICATING THE DISTRIBUTION OF THE ORIYA-SPEAKING PEOPLES.

APPENDIX II.

ADDRESS PRESENTED TO HIS EXCELLENCY THE VICEROY AND THE SECRETARY OF STATE BY REPRESENTATIVES OF THE UTKAL UNION CONFERENCE IN 1917.

The Humble Memorial of the undersigned most respectfully sheweth,—

The undersigned memorialists, who are mostly the popular representatives on the Legislative Councils, Local and Imperial, have been authorized by the Utkal Union Conference representing the Oriya-speaking tracts now under Bihar and Orissa, Madras and Central Provinces, at its 12th sitting, to lay the grievances of the Oriyas which they do in the hope that their representation may receive sympathetic consideration.

The Oriyas numbering about eleven millions of His Majesty's loyal subjects inhabiting mainly the Division of Orissa, the Districts of Ganjam and Vizagapatam Agency under Madras, and Singhbhum in Chota Nagpur, approach Your Excellency and accord you, Sir, a cordial welcome to this country in which Orissa has been conspicuously known as the " holy land " of India on this most auspicious occasion of your visit to His Majesty's great Eastern Dominions when the British Empire is engaged in the righteous struggle to punish a brutal enemy whose one object is the destruction of small nationalities like the Belgians.

The past history of the Oriya nation, their architectural fame and their achievements in religion, politics and the language and literature of their country, still mark them out as an ancient race with a genius all their own, the remains of which can still be seen in the temples of Puri and in the Oriya classics of Ganjam.

The Oriyas were under one administrative system under Oriya monarchs who ruled for centuries over a vast tract of country between the sacred rivers, the Godaveri and the Ganges, and founded Puri (Jagannath) as the religious capital of India. Yet nothing in modern times has stirred the heart of the Oriya nation so deeply as their present administrative dismemberment under different local Governments.

The advance of English education among neighbouring races due to facilities given to them at an early stage in British administration in Capital towns and their rise in consequence to positions of influence similar to those of an intermediary ruling race which led to the practice of substituting Oriya by Telugu, Hindi or Bengali, and thereby to deprive the Oriya child of his mother-tongue in certain parts where the school reminds him of the condition of a bird in a cage taught to talk the language of his master, the interposition of an Indian interpreter of a different race when the Oriya suitor seeks justice in a law court to the neglect of the popular vernacular, the advantageous position of education and influence held by the predominant portion of the provincial population which affords them unique opportunities for posts and preferments and representation in the Councils and development of

vested interests, the situation of Oriya tracts at the tail end of each province necessarily kept backward, the indifference of the authorities to the continuous prayers of the Oriyas for their administrative re-union, all these present a striking contrast to the policy pursued by British Government in the administration of the other parts of India.

The occasional expression of sympathy of certain individual officers and the noble yet unsuccessful endeavour, for example, of the Government of Lord Curzon to reunite the Oriyas under one administration, and the recent joining of only a portion of Oriya tract to Bihar for the supposed advantages of an impracticable sea-board to the province, have raised serious doubts in the minds of eleven millions of people with regard to the pronounced policy of the British Government to give equal opportunities to all classes of people to reap the benefits of the British Rule.

The eleven millions of the Oriyas who have just survived dissolution as a nation now look up to Your Excellency and you, Sir, for the satisfactory solution of what they feel to be the life and death problem to them and the glowing picture which you were pleased to draw of a federated India in your memorable speech in Parliament in the Debate on the Mesopotamia Commission has inspired them with fresh hope and renewed confidence that the administrative union of Oriya tracts may be a necessary preliminary to the projected Reform.

For reasons detailed in Appendix B hereto attached the memorialists pray:—

1. That the Oriya-speaking tracts, outlined by Dr. Grierson in his Linguistic Survey of India, Vol. V (a sketch map of which is attached hereto in the Appendix (A), be brought together under one separate Administration of the type which Bihar and Orissa now has.
2. That if it be not feasible under the present circumstances to organize a separate administration for the Oriya-speaking tracts referred to above, the proposed united Orissa be placed under the Government of Bihar and Orissa for the present with a view that it may at a future time develop into a separate administration. In the latter case, wider representation in the councils, both Local and Imperial, and in the University may be provided in a manner that would admit of the proposed unit Orissa being granted an equal status with Bihar, in order to avoid the risk of the Oriyas being relegated to a subordinate position which has been their lot in the past.

APPENDIX (A) THE MAP IS OMITTED

APPENDIX (B) TO THE MEMORIAL.

The history of the political ascendency of the Oriya kings who ruled for centuries over a vast tract between the Ganges and the

Godaveri and shaped the national genius of the people explains the existence of Oriya aristocracy which is such a special feature of Ganjam and Jeypore Agency as the following extracts from Ganjam Manual will show:—

(*a*) The zemindars of Ganjam, most of whom derived their power and estates from the Gajapati kings of Orissa who granted them their lands on condition of feudal service—many of them appear to have been nominated to their estates by Purushottam Deo who ruled over Orissa in 1479 to 1504 A.D. (page 18).

(*b*) *The Orissa Kings*.—Kesari line of kings said to have ruled over Orissa for more than six hundred years and doubtless extended their sway over the neighbouring tract of Ganjam (paragraph 2, page 96).

(*c*) The Gajapati princes (Gangetic dynasty) gave to the country a long line of rulers and their descendants even now occupy considerable territorial possessions in both Orissa and Ganjam. The rajas of Ganjam have moreover always looked upon the kings of Orissa as their chief fountain of honour and at the present day they still acknowledge the Raja of Jagannath or Puri a descendant of the ancient Orissa kings as their chief. The foundation of the town of Ganjam is usually attributed to a member of this family (paragraph 3, page 96).

(*d*) The dominions of the Orissa kings certainly extended beyond the Kistna river and their power was at its height in 13th, 14th and 15th centuries (paragraph 2, page 97).

(*e*) Purushottam Deo (a Gangetic king of Orissa) established many of the smaller zemindars in Ganjam whilst others were confirmed by him in their estates upon their presenting themselves before him and tendering him their allegiance in the course of his progress through the country (paragraph 1, page 98).

(*f*) The Gajapati princes (of Orissa) still, however, continued in power both in the provinces of Chicacole and Rajahmundry until some time later (page 99).

To the same effect are the facts recorded in the Manual of the Administration of the Madras Presidency, 1885, page 151, volume I, page 77, volume II and Stirling's history of Orissa.

The British acquisition of Ganjam District for instance long preceded that of Orissa by some 37 years earlier and the administrative separation of other Orissa tracts is due to similar circumstances. Thus the present distribution of the Oriya-speaking areas over which the people had no control and which have determined the constitution of Provinces and Divisions with absolutely no regard for the feelings and sentiments of the people and their history, ethnology, traditions, their peculiar customs, manners and language.

The reunion of Oriya tracts has been a serious problem both to the Government and the people. The following quotation from paragraph (13), the Government of India's letter no. 3678, dated the 3rd December 1903, to the Government of Bengal explains the

situation :—" The difficulties arising from the Oriya problem thus created has been for years a source of anxiety and trouble to the different provinces concerned ". " The Government of Madras have repeatedly complained of the anxieties imposed upon the administration by the great diversity of languages (Oriya, Tamil, Telugu, Malayalam and Canarese) with which Madras civilians are called upon to cope with and which render the transfer of officers from one part of the Presidency to another a matter, in any case, of great difficulty and often of positive detriment to the public interest. These disadvantages exercise an injurious effect not only upon the administration, but still more upon the people. Where the population speaking a distinct language and the area over which it is spoken are too small to constitute a substantial portion of a Province, the foreign unit is almost of necessity neglected. Under ordinary conditions the Government is unable to retain in it a superior staff who have become acquainted with the local language, and with the local customs which invariably accompany it. It is often impossible to officer the subordinate staff from local sources, and foreigners have to be brought in who are ignorant alike of the people, their language and their ways. The Government may order that the Vernacular shall be the language of the officers and course but since neither officers nor clerks know this Vernacular properly, compliance with the order is often impracticable and almost always incomplete. Nowhere are these drawbacks more conspicuous than among the Oriya-speaking people, distributed as has been pointed out, between three administrations and a source of constant anxiety to each. Hence in dealing with a question of this kind, it may be that the true criterion of territorial redistribution should be sought not in race but in language. The Oriya-speaking group in any case emerges as a distinct and unmistakable factor, with an identity and interests of its own ".

The Commissioner of Orissa Division made in 1895 a proposal advocating the inclusion of all Oriya-speaking tracts in one division, both on administrative and political grounds, *vide Calcutta Gazette* supplement, dated 23rd October, page 2357. The Oriyas have suffered long under the malign influences in operation in the administrative areas under different local Governments, tending to the destruction of their solidarity as a distinct community; and it is to maintain the identity and to further their special interests that they are exceedingly anxious which was appreciated by Lord Crewe, in his Darbar despatch, 1911 :—" Orissa has long felt uneasiness at a possible loss of identity as a distinct community ". Though this appreciation, sympathetic as it might be, resulted in nothing better than tying the Orissa Division to Bihar only to " present a seaboard to that Province " and thereby distributing the Oriyas over four different administrations instead of three which was erstwhile their case.

In 1903 a final solution of the problem was attempted by the Government of Lord Curzon in their proposal, *vide* letter no. 3678, dated the 3rd December, to the Government of Bengal, to unite the Oriya tracts under one administration. But the proposal was only

partially carried into effect by the transfer of the Sambalpur District to Orissa from the Central Provinces, owing to the unfortunate absence of Lord Curzon, on leave and the filling up of the Viceroyalty by Lord Ampthill, who as the Governor of Madras had opposed the proposed transfer of Madras Oriya tracts to Orissa. This half measure was disappointing to the people and the cry for a united Orissa has been repeatedly made through the resolutions at the periodical sittings of the Utkal Union Conference comprising the representatives from the Oriya-speaking tracts under different administrations. Representations and memorials to local and Supreme Governments and through deputations waiting on the provincial Governors have been made without effect. The same question was moved in the British Parliament in 1912 and elicited the sympathetic reply of the Under Secretary of State for India (Mr. Montagu) to the effect that the proposed transfer of Ganjam to Orissa might be made at any time if " accumulated evidence be forthcoming for the change ".

Disabilities and *disadvantages* mainly responsible for their present backward condition are connected with the following epoch-making facts:—

The Oriya Vernacular, for instance, had struggled long with its Bengali competitor before it could re-establish itself as an officially recognized language in Orissa. A much worse fate had befallen it in the Districts under Madras and Central Provinces Administrations, Telugu and Hindi having been substituted for indigenous Oriya as the medium of instruction and as court language. The Oriyas in Singhbhum are compelled to receive instruction or conduct official business through Hindi or Bengali instead of their own mother-tongue, though Hindi-speaking people there represent only 4 per cent. of the total population. The economic, educational and other disadvantages due to the administrative dismemberment of the Oriyas have all along been the opportunities of the advanced races developing vested interests in the Oriya-speaking districts. All the high posts of trust and responsibility are theirs. They command the majority in all public bodies, local and municipal, Oriyas forming therein only an insignificant minority and that in their own districts.

Popular Representation.

Owing to their minority and backward condition in each province the Oriyas find themselves at a disadvantage in the matter of representation in Legislative Councils, both local and Imperial. As matters stand at present in the Oriya-speaking tracts outside Orissa Division there is no chance of an Oriya being ever returned by election to the local Legislative Councils. Even in the Orissa Division, they find themselves in a small minority in the Legislative Council of Bihar and Orissa, a condition which might be far improved if the outlying Oriya-speaking tracts be added to Orissa. The present position of all Oriya tracts in this respect is most precarious.

ORIYAS HANDICAPPED AND LOSS OF INDENTITY PROBABLE.

The Oriyas are a distinct race with their own characteristics and ideals. They remain like a foreign unit in Madras, as long as they are forced into an unnatural and unwilling combination with races entirely differing from them in manners and customs, language and literature, history and traditions, pshychology and character. They incur the danger of having their national characteristics and aspirations sacrificed to the predominating portion of the Provincial population, they are a minority in each province and are expected to stand against odds in the battle of life.

CHANGE, CONDITIONS AND NEW ARGUMENTS.

In reply to the addresses presented by the Landholders' Association and Oriya Samaj, Ganjam, to His Excellency Lord Pentland during his Ganjam tour, for the administrative union of Oriya tracts with Orissa, His Excellency gave a hope of consideration of the prayer if conditions changed, new and weighty arguments were produced. The present world-wide war is significant for the fact that the British lion is the protector of the weak nationalities.

The dismembered Oriya nation ask for re-union. They take their stand on the hopeful reply of Lord Pentland who meant every word he said to the Oriyas of Ganjam.

Conditions have since been rapidly changing in India. Competition in all advanced provinces is overwhelmingly increasing. The weak and the minor communities must go to the wall in the struggle. Indian and Home Governments have already declared the policy of increasing the association of Indians in the administration towards the goal to self-government. The Oriyas are naturally anxious for their own protection. The benign Government of Madras must reconsider the case of the Oriyas anxious to join Orissa when the latter stands, under their present conditions, little chance of a fair representation of their interests in the councils in the near future.

The following are the outlying Oriya tracts proposed to be added to Orissa:—

GANJAM DISTRICT MINUS CHICACOLE TALUK AND VIZAGAPATAM AGENCY, MADRAS.

Ganjam lies on the Southern and Western limits of Puri District in Orissa and Vizagapatam Agency borders on the south-western side of Kala-handi in the Sambalpur District of Orissa.

1. As per census, 1911, Ganjam District minus Chicacole has a net population nearly two millions with an Oriya population of 10,91,05, against a Telugu population of 579,332, the rest being the speakers of other languages, mainly Khonds and Savaras (284,286).

2. Vizagapatam Agency, out of a total population of 1,020,151, 645,402 are Oriyas including Porojas and Savaras who speak a dialect of Oriya against a Telugu population of 17,626, the rest being Khonds.

The last census report (1911), Madras, states a reduction in the Oriya population of Ganjam by nearly three lakhs compared with the census of 1901 and explains the difference by stating that the previous one must be wrong. But the recent census report wrongly classifies castes common to both Oriyas and Telugus and mixes up Oriya castes among Telugu, *e.g.*, Kshatriyas, Kalinjis, Belamas and 8 other castes, *vide* page 118, Vol. XII, Part 2. The matter was also brought to the notice of Government who promised consideration of it at the next census. This explains the reduction. The error must be due to the ignorance of the Telugu census officials of Oriya language or their deliberate misrepresentation or both. Separating these Oriya castes from Telugu, the Oriya population of Ganjam will be, in round figures, 15 lakhs as against one lakh of Telugu population in the whole of Ganjam, minus Chicacole. Hence the net population of Oriya Ganjam, proposed to be united with Orissa, will be 1,955,144 or nearly two millions out of which 15 lakhs are Oriya-speaking against one lakh of Telugu speakers, the rest being mostly speakers of Khond the unwritten language of the hill tribes, who are taught Oriya in the schools in the Agency. Thus the change proposed *re.* Madras consists of nearly 16,600 per sq. mile of territory with a net population of about three millions out of which over two millions of Oriyas against over two lakhs of Telugus; the rest being hill tribes.

Oriya Tracts, Central Provinces.

1. Khariar contains 8 per cent. of Oriyas with an Oriya Zemindar as their head.

2. Padampur and Chandarpur estates contain a fairly large proportion of Oriya population.

3. Phuljhar zemindari contains 50 per cent. of Oriya-speaking people. The last two tracts formed part of the Oriya District of Sambalpur in Orissa till 1903.

4. The Feudatory States of Bastar, Sarangarh, Raigarh, Udaipur, Jashpur are partly Oriya and partly Hindi-speaking.

Singhbhum, Bihar and Orissa.

In Singhbhum District the Oriyas number 125,593 against 258,201 "Ho's" and 108,584 Bengali-speaking people out of a total population of nearly 7 lakhs, "Ho" being an aboriginal dialect which will give place to Oriya in due course. *Vide* paragraph 9 of the letter of Government of India, no. 3678, dated the 3rd December 1903.

Most of the people in the District returned as Bengali-speaking are Oriyas by race but the Oriya language having been abolished from schools and courts and partly Bengali partly Hindi having been substituted in its place, the Oriya people are losing their mother-tongue through this enforced adoption.

Midnapore, Bengal.

The areas proposed to be transferred from the Midnapore District lie in the South of the District bordering on the Northern

side of Balasore District of Orissa. The Oriya-speaking people number 270,000 mainly confined to the Southern part of the District in thanas Dantan, Gopibalabhpur, Egra, Ramnagar, Contai, Pataspur, Jhargaon and Narayangar. The following fact should be noted here:—In 1891 the Oriya speakers—

In Midnapore were	572,798
In 1901	270,495
In 1911	181,801

The decrease is obviously due to the replacement of Oriya by Bengali in schools and courts. *Vide* Census Report of Bengal of 1911, Part I (Volume 5), page 389.

This is an instance of deliberate destruction of the Oriya identity by other stronger races.

In any scheme of territorial readjustment for the formation of a Provincial autonomy the Oriya would claim the areas indicated by Dr. Grierson as Oriya-speaking tracts in his comprehensive and careful Linguistic survey of India. *Vide* map of the (Oriya-speaking) tract at page 367, Volume 5, Part 2.

"The Orissa country is not confined to the division which now bears that name. It includes a portion of the District of Midnapore in the North, which together with a part of Balasore, was the "Orissa" of the phrase ("Bengal, Bihar and Orissa") met in the regulations framed by the Government in the last decades of the eighteenth century. Oriya is also the language of most of the district of Singhbhum belonging to the division, of Chota Nagpur and of several neighbouring Native States which fall politically within the same division. On the west it is the language of the greater part of the District of Sambalpur and of a small portion of the district of Raipur in the Central Provinces and also of the number of Native States which lie between these districts and Orissa proper.

On the south, it is the language of the North of the Madras District of Ganjam with its connected Native States, and of the Jeypore Agency of Vizagapatam. It is thus spoken in three Governments of British India, *viz.*, in the Lower Provinces of Bengal, in the Central Provinces, and in the Madras Presidency. Grierson, page 367.

The total area and population of Oriya-speaking tracts (870,000 square miles and over 14 millions of people) are fairly large for a single Administration as compared with Assam with an area of 52,959 square miles and a population of 6,713, 635 or Central Provinces and Berar with an area of 100,345 square miles and a population of 13,916,308.

The accompanying tabular statement shows the area, population, and the proportion of Oriya-speaking people in the specific tracts to be added to Orissa as per census 1911. The figures for the Central Provinces tracts are taken from the Blue book (reconstruction of Provinces, Bengal and Assam in continuation of Cd. 2658) 1905. The Oriya-speaking population of Ganjam has to be read in the light of the arguments stated at pages 10 and 11 *supra*.

The following tracts constitute the proposed united Orissa :—

Serial No.	Oriya Tracts.	Area in sq. miles.	Total population.	Oriya population.	Population speaking other principal languages of the Province.	Population speaking other languages liable to be absorbed by the Oriya language.	Remarks.
	BIHAR AND ORISSA.						
1	Orissa Division including the Feudatory States.	41,789	8,928,316	7,643,714	.....	.....	
2	Singhbhum District in Chota Nagpur Division.	3,891	694,394	124,593	Bengali 108,584 Hindi (nearly) 35,000	.....	
3	Seraikala and Kharswan States in the Chota Nagpur Division.	602	148,646	43,058	.....	Mainly aboriginal .	Already in the Orissa Division.
	MADRAS.						
4	Ganjam except the Telugu Taluk of Chicacole.	4,000	1,604,709	958,661	Telugu 573,332	72,716	
5	Ganjam Agency . .	3,484	350,466	132,392	Telugu 6,000	212,074	
6	Vizagapatam Agency .	12,621	1,020,151	473,437	Telugu 170,626	476,088 mostly Khond	
	CENTRAL PROVINCES.						
7	Padampur, Chandarpur, Phuljhar and Khariar Zemindaris.	1,822	266,344	139,362	Hindi ...	Mostly aboriginal .	These Zemindaris are mostly Oriya-speaking.
8	Baster, Sarangarh, Raigarh, Udaipur, Jashpur States.	18,056	993,552	102,022	Hindi ...	Do.	The States are partly Hindi and partly Oriya-speaking.
	BENGAL.						
9	Contai Sub-Division of Midnapore District, Keshpur, Dantan, Gopiballabhpur, Jhargaon, Narayangarh Thanas in the Midnapur District.	1,792	990,988	572,798	Bengali ..	.....	
	Total .	88,057	14,997,566	10,190,037	.....	.....	

APPENDIX III.

THE GOVERNMENT OF INDIA'S LETTER NO. 3678, DATED THE 3RD DECEMBER 1903, ADDRESSED TO THE GOVERNMENT OF BENGAL.

I am directed to address you on the subject of the desirability of reducing the territorial jurisdiction of the Lieutenant-Governor of Bengal with the object of lightening the excessive burden now imposed upon the Government by the increase of population, the expansion of commercial and industrial enterprise, and the growing complexity of all branches of the administration.

2. As long ago as 1868 Sir Stafford Northcote drew attention to the greatly augmented demands that the outlying portions of Bengal appeared to make on the time and labour of those concerned in the government of the province. He referred to the famine of 1866 as furnishing evidence of the defects of the existing system of government when exposed to the ordeal of a serious emergency, and, among other methods of relieving the overtasked administration, he suggested the separation from Bengal proper of Assam and possibly of Orissa. In the discussions that followed the question was very thoroughly examined by a number of high authorities, and eventually it was decided that Orissa should remain attached to Bengal, but that Assam proper and certain other districts on the north-eastern frontier of Bengal should be formed into a separate Chief Commissionership directly under the Government of India. At the time when this decision was arrived at the population of Bengal as then constituted was believed to be between forty and fifty millions. The Census of 1872 showed it to be nearly 67 millions. With these figures before him Sir G. Campbell said, as Sir William Grey had said five years before, that the territories under the Lieutenant-Governor of Bengal were more than one man unaided could properly govern. Since then the population of Bengal, as it now stands, has risen to 78½ millions, and this increase has been accompanied by a considerable development of the material resources of the country, and a great extension of railways and other means of communication, while the spread of English education and the wider diffusion of the native press tend to increase litigation, to demand more precise methods of administration, to give greater publicity to the conduct of officials, and in every way to place a heavier strain upon the head of the Government and upon all ranks of his subordinates. In the opinion of the Government of India, the time has come when the relief of the Bengal Government must be regarded as an administrative necessity of the first order. And that relief can be afforded, not, as has been suggested on several previous occasions, by organic changes in the form of Government, but only actual transference of territory. It is unnecessary to refer to the circumstances which have brought about the great concentration of peoples (with a corresponding growth of administrative problems) in the deltaic

Despatch No. 10, dated 16th January 1868.

regions that constitute the greater part of Lower Bengal. The fact is sufficient that at the present time the Lieutenant-Governor of Bengal is called upon to administer an area of 189,000 square miles (151,000 British territory) with a population of 78,493,000 (74,744,000 in British territory) and a gross revenue of 1,137 lakhs (land revenue 505 lakhs).

3. The Government of India believe it to be beyond dispute that this is too heavy a burden for any one man, and that it cannot be adequately discharged save at the expense of efficiency. A Lieutenant-Governor of Bengal, if he spent the whole of the available season of the year in touring, could yet only succeed, during his term of office, in visiting a portion of his vast charge. As a matter of fact, it will commonly be found that places so important as Chittagong, Dacca, Cuttack and Ranchi receive not more than a single hurried visit within the five years. The Lieutenant-Governor is generally expected to be in Calcutta during the winter months, from November to April, and there his time is taken up not only by social duties, which are onerous and which tend continually to increase, but official or ceremonial functions in which he is called upon to play a leading part; while personal interviews occupy a large portion of his time. He is only able to undertake short and hurried excursions in his province at this, which is the most favourable season of the year: and the time that he devotes to his departments and to provincial administration is constantly being encroached upon by great Municipal and other problems. In the remaining seasons of the year he is unable to make up the deficit for which Calcutta has been responsible. The result of both these features, *viz.*, the hurried and necessarily incomplete tours of the Lieutenant-Governor through his province, and his overwhelming pre-occupations while he resides in the capital, is that in Bengal the work of government has come to be less personal in its character than in any other Indian administration. Anywhere in India this would be a grave defect, but it is worst of all in a province where already, owing to the existence of the Permanent Settlement, there is wanting that link of close knowledge and mutual understanding between the district officer and the people that is supplied by an intimate familiarity with the Land Revenue settlement and administration. Thus in the province where personal rule is perhaps most required, there is least of it, and where the officers know least of the people, the Government knows least of its officers. This is a state of affairs that cannot be revolutionised in a moment, and perhaps cannot be revolutionised at all. But the one course that is practicable is to reduce the gravity of the mischief by curtailing its extent, and to afford the opportunity for increased contact between the administration and the people by easing the former's burden. Already in 1874 the same line of reasoning led, in spite of many contemporary protests, to the severance of Assam from Bengal. The result has undoubtedly been beneficial to both parties, and the experiment has been justified. The time has now come when it should be repeated on a larger scale. No question of loss of prestige or even of temporary sacrifice of advantage ought

to stand in the way of a statesmanlike and far-sighted handling of the question. As in 1874, the main criterion of the action of Government should be the good of the districts and the people whom it is proposed to transfer, but behind this stands the paramount consideration that transference on a large scale has become an absolute necessity.

4. This curtailment can be effected only in two directions. The neighbouring provinces to Bengal are the United Provinces on the North-West, the Central Provinces on the West and South-West, Madras on the South, and Assam on the North-East and East. Proposals to take away Bihar and add it to the area now known as the United Provinces have been put forward in former days, but are not now likely to be revived. Moreover, the Government of the United Provinces with 112,000 square miles (107,000 British territory and 48,493,000 people (47,691,000 in British territory to administer, has already in respect both of area and population a sufficiently heavy charge. Nor would the Government of India propose (apart from special reasons connected with the circumstances of the border districts) to add to the area or responsibilities of Madras. That Government is fully occupied with 151,000 square miles (141,000 British territory) and 42,397,000 people (38,209,000 in British territory).

5. There remain then the Central Provinces and Assam. Both are young and growing administrations, capable of sustaining a heavier charge. Both will profit rather than lose by an increase of responsibilities. It is in these two directions that relief to Bengal must be sought and a readjustment of boundaries applied.

6. In considering the question of possible transfers of territory from Bengal to the Central Provinces, the Governor General in Council will deal first with the relatively less important area of Chutia Nagpur. Chutia Nagpur consists of five British districts and a number of Tributary Mahals, ruled by small Native Chiefs. The total area is 43,000 square miles (27,000 British territory), population 5,901,000 (4,900,000 in British territory), land revenue of British districts 7⅓ lakhs. A large proportion of the inhabitants of this country consists of comparatively primitive people of aboriginal descent, who supply labourers to the coal-mines of Bengal, the tea-plantations of the Western Duars and Assam, and the jute or cotton mills on the Hughli. As far back as 1887, it was suggested that Chutia Nagpur should be transferred to the Central Provinces, but the proposal excepted the two districts of Hazaribagh and Manbhum, the former bordering upon Bihar and the latter upon Bengal, because of their greater affinities with Bengal characteristics. If Hazaribagh and Manbhum are both deducted from the area to be transferred to the Central Provinces, then the latter would receive in British territory 15,800 square miles and 2,421,000 people. If Manbhum alone is left to Bengal, the transfer to the Central Provinces would affect 22,000 square miles and 3,599,000 people. Bearing in mind the imperative necessity of affording relief to Bengal, the Government of India

are disposed, other things being equal, to advocate the transfer to the Central Provinces of the larger rather than of the smaller area. On this question I am to invite a full expression of the Lieutenant-Governor's opinion.

7. The arguments in favour of the transfer may be briefly summarised as follows:—

(*i*) In character and state of development the people of Chutia Nagpur correspond much more closely with those in the Central Provinces than with the population of Bengal.

(*ii*) The Bengal form of administration is too highly developed too legalised, and too impersonal for backward tracts and primitive hill-tribes. This view is borne out by the experience of a series of outbreaks in recent years and by the difficulties met with in dealing effectually with the land tenures of this part of the province.

8. The considerations on the opposite side may be stated thus:—

(*i*) It will probably be represented that Chutia Nagpur is one of the few attractive divisions in Bengal, the stations of Ranchi and Hazaribagh being situated 2,000 feet above the sea and possessing considerable climatic advantages. The Bengal Government will doubtless not fail to give to this view the importance to which it is entitled; but it is clearly not one that should exercise a determining effect in the decision of the Government of India.

(*ii*) There is a further argument that may perhaps be used in favour of leaving the district of Hazaribagh with Bengal. This is the existence in that district of some of the most valuable present or prospective coal-fields of Bengal (*e.g.*, Karharbari and Karanpura). The connection of this industry lies almost exclusively with Calcutta, and therein may be found a possible reason for the continuance of the present administrative tie. It is conceivable that the solution may be found in transferring a portion only of the district, so adjusted as to leave the principal coal-fields with Bengal. The same argument is capable of being used, although with less force, of the District of Palamau (containing the coal-field of Daltonganj); and the Lieutenant-Governor will know what value to attach to a plea for the association of these northern districts of Chutia Nagpur with Behar.

(*iii*) It may also perhaps be urged that Ranchi is nearer to Calcutta than to Nagpur, and that difficult ranges of hills separate Chutia Nagpur on the west from the Central Provinces. The fact is that Chutia Nagpur is more or less inaccessible from most directions. No

administrative rearrangement can for the present alter this material fact. What the Government of India are concerned with, however, is the relief of its administrative rather than its physical isolation. If the people cannot be brought nearer to Government, it is at least desirable to bring Government nearer to them.

9. On a careful consideration of the foregoing arguments the Government of India are disposed to favour the transfer of Chutia Nagpur (except the District of Manbhum, and possibly part or the whole of Hazaribagh) with its Tributary Mahals to the Central Provinces. The only modification in this arrangement that may be required will be contingent upon the decision that may be arrived at concerning the Oriya-speaking peoples. If these are all to be concentrated, as is proposed below, in a single tract to be administered, not by the Central Provinces but by Bengal, then (supposing geographical conditions to render this practicable) it may be desirable to exclude such Oriya-speaking elements as there are in Chutia Nagpur, and to leave them with Bengal. They are contained almost exclusively in the District of Singhbhum where there are 100,000 Oriya-speaking people out of a total population of 613,000. In the centre of that district 235,000 people speak a Munda language, named Ho, which in course of time will probably give place to Oriya. The retention of Singhbhum by Bengal would be facilitated by the existence on its eastern border of the large Bengali thana of Ghatsila (220,000 population).

10. I am next to pass to a discussion of the case of Orissa. The total area of Orissa is 24,000 square miles (9,800 British territory), population 6,290,000 (4,343,000 in British territory), land revenue 28 lakhs. A glance at the map will show that, while under existing conditions Orissa is somewhat of a projection from the south-western corner of Bengal, if the proposals already made as regards Chutia Nagpur are carried out, its physical detachment from the remainder of that province will be still more pronounced. These circumstances, added to others which will be mentioned, have always brought the case of Orissa under examination when the question of relief to Bengal has been raised, and its transfer to the Central Provinces has been suggested on several occasions. The reasons urged in favour of the change are the same now as they were then. They may be stated and criticised as follows:—

(*i*) There is a historical connection between Orissa and the Mahratta tracts of the Central Provinces. This argument might be of some use as supporting other considerations that pointed in the same direction. But it will be generally admitted that it has no independent value, since the question now under consideration is concerned not with ancient history, but with present and future needs.

(*ii*) Orissa is a temporarily settled area (as are the whole of the Central Provinces), while the remainder of Bengal,

with the exception of certain tracts in Chittagong which will probably be transferred, is under the Permanent Settlement. This is a very weighty consideration, and the Government of India do not underrate its value. But, in the present situation, wider considerations even than those of Land Revenue settlement and administration must prevail.

(*iii*) The national tongue of Orissa is Oriya, and as Oriya is the language spoken by $1\frac{1}{2}$ millions of people in the Central Provinces (mainly in Sambalpur and the attached States), therefore it may be contended Orissa ought to be joined to the Central Provinces. The argument from language is, however, equally capable of being used as a still more convincing plea for the union of the smaller Oriya-speaking area with the larger; and it is in this sense that it will presently be employed.

11. On the other hand, the reasons which have always hitherto prevailed against the transfer are as follows:—

(*i*) Orissa has been for close upon a century under the Bengal administration. The prescription of a century is difficult to break, though not insurmountable. It is believed to be accompanied in the case of Orissa by a very strong feeling on the part of the educated and commercial classes in favour of the existing arrangements. This again is a condition that is capable of being overruled, but that requires a strong case of probable advantage to the severed unit in order to justify the change.

(*ii*) But in the case of Orissa the strongest argument against any such probable advantage is to be found in the recent completion of the East Coast Railway, which has now brought the province into far closer connection with Calcutta than would ever be possible with the Central Provinces. Cuttack, the capital of Orissa, is distant only 12 hours from Calcutta as against 30 from Nagpur, and even if a connection were made *viâ* Sambalpur, the latter distance would only be reduced by about ten hours. In these circumstances, Orissa now receives from Bengal a degree of attention that it could hardly expect to obtain from the Central Provinces; while the completion of the railway has greatly strengthened the commercial links that already attach the internal and maritime towns of Orissa with Calcutta.

(*iii*) The argument has sometimes been employed on paper that it would be a good thing to provide the Central Provinces with a maritime outlet. But it is weakened in this case by the fact that Orissa possesses no harbour that is capable of being turned into a port, Chandbally,

the only possible claimant, being difficult of approach and comparatively unfrequented.

The balance of argument as thus stated, appears to the Government of India to be on the whole decisive against the transfer of Orissa to the Central Provinces; although it is not desired to arrive at a final opinion, until the views of the Local Government, who are in a better position to represent local interests and necessities, have been fully heard.

12. The future of Orissa will not, however, be determined exclusively by a consideration of the points that have already been put forward. Other and wider issues are, in the opinion of the Governor General in Council, involved. They embrace questions of race and language, in addition to or apart from the more arbitrary distinctions of administrative or territorial partition. Oriya has been already referred to as the prevalent language of Orissa both in the plain districts and in the Tributary Mahals. It is also the vernacular of a large surrounding area. This area comprises—

(*a*) Sambalpur and certain adjacent Feudatory States, now under the Central Provinces.

(*b*) A part of the Singhbhum District of Chutia Nagpur, now under Bengal.

(*c*) The Ganjam District, now under Madras, in which, out of a total population of 1,689,000, 1,275,000 are Oriya-speaking.

(*d*) The Ganjam Agency Tracts, also administered by Madras, in which, out of a population of 321,000, 87,000 are Oriya-speaking. The majority (157,000) of the people of these tracts speak Khond, a Dravidian language which, as education spreads, is certain to give place to Oriya, while the speakers of Telugu number only 5,800.

(*e*) The Vizagapatam Agency Tracts, also under Madras, in which, out of a population of 850,000, 409,000 are Oriya-speaking. The Vizagapatam District proper is in a different position, since, out of a population of 2,082,000, only 30,000 are Oriya-speaking, and this area accordingly does not enter into the field of the present discussion.

13. The difficulties arising from the problem thus created have been for years a source of anxiety and trouble to the different provinces concerned. No official complaint has been received from Bengal, because the factor of its Oriya-speaking population has been one with which it has had to deal for a century, and to which it has learned to accommodate itself as best it could. The Central Provinces, on the other hand, have experienced such difficulties in connexion with the administration of Sambalpur, that the Chief Commissioner asked in 1901 to be relieved of that district altogether, and although the Government of India were then unable to comply with the request, they were compelled to rescind a previous decision

of 1895, which had proved unworkable in practice, and to restore Oriya as the court language of Sambalpur. Similarly the Government of Madras have repeatedly complained of the anxieties imposed upon the Administration by the great diversity of languages (Oriya, Tamil, Telugu, Malayalam, Canarese) with which Madras civilians are called upon to cope, and which render the transfer of officers from one part of the Presidency to another a matter in any case of great difficulty and often of positive detriment to the public interest. These disadvantages exercise an injurious effect not only upon the administration, but still more upon the people. Where the population speaking a distinct language and the area over which it is spoken are too small to constitute a substantial portion of a province, the foreign unit is almost of necessity neglected. Under ordinary conditions the Government is unable to retain in it a superior staff who have become acquainted with the local language, and with the local customs which invariably accompany it. It is often impossible to officer the subordinate staff from local sources, and foreigners have to be brought in who are ignorant alike of the people, their language, and their ways. The Government may order that the vernacular shall be the language of the Government offices and Courts; but since neither officers nor clerks know this vernacular properly, compliance with the order is often impracticable and almost always incomplete. Nowhere are these drawbacks more conspicuous than among the Oriya-speaking peoples, distributed, as has been pointed out, between three administrations, and a source of constant anxiety to each. Hence in dealing with a question of this kind, it may be that the true criterion of territorial redistribution should be sought not in race but in language. Applying this test in the present case it is doubtful whether any positive distinction can be drawn between the Oriya-speaking peoples of the plains and those of the hills. The Oriya of Sambalpur is described indeed as a hybrid *patois*, as compared with the purer tongue of Orissa. No doubt there is some truth in this. Hillmen always talk a ruder dialect than plainmen, and uncivilised tribes than civilised peoples. But there is reason to believe that in the Eastern half of the Sambalpur District good Oriya is spoken, though in the west it gradually melts into Chhatisgarhi Hindi. In any case practical experience goes to show that the connection between a spoken language and its dialect or its *patois*, is a more potent ground of union than a purely racial difference is one of separation. The Oriya-speaking group in any case emerges as a distinct and unmistakable factor, with an identity and interests of its own.

14. The opinions of the members of this group have, on several occasions, been expressed in no uncertain sound. They entertain, so far as is known, no particular desire for the disruption of existing ties, as compared one with the other; but they entertain the strongest desire for the disruption of all such ties if by these means they can purchase the much greater advantage of linguistic union. They ask not so much to be taken away from Madras, with whose

administration they are not believed to have grounds for complaint, or to be added to or taken away from the Central Provinces, or to remain under or be transferred to Bengal, as to be welded by the link of their common language into a single administrative whole. The Government of India have received a petition from the people of Ganjam, in which they speak of themselves as dissociated from their Oriya brethren and of Orissa as " a limb separated from the body ", and they pray, not for a patchwork redistribution, but that the Government of India " will be graciously pleased to bring together the scattered divisions inhabited by Oriya-speaking peoples, *i.e.*, Ganjam in Madras, Sambalpur in the Central Provinces, and Orissa in Bengal, under the Government of Bengal or under any one Government and one University ". To the same effect is the prayer of Raja Baikuntha Nath of Balasore that " all the districts and States speaking the Oriya language be united together and placed under one common administration, no matter whether under Madras, Bengal, the Central Provinces, or a separate administration ". The Government of India have further been informed on the best authority that even those among the people of Sambalpur who are most attached to the Central Provinces " would prefer to sever connection with the province to giving up their mother tongue ". It is for unity on the basis of language, not for redistribution on the basis of administrative advantage, that all these memorialists plead. It is not contended that opinions may not be forthcoming on the opposite side. If they exist they will doubtless be evoked by the present discussion. So far, however, as any expression of local views has yet reached the Government of India, it coincides with the independent impression that has been formed by them.

15. On the grounds above stated the Government of India are disposed to unite the whole of the Oriya-speaking peoples, both hill and plain, under one administration, and to make that administration in Bengal. In other words, they would add to Orissa the Oriya-speaking tracts of Sambalpur (615,941 Oriya-speaking people out of a total population of 829,698), and its Feudatory States, the Ganjam District (with the possible exception of one taluk in which Oriya is said not to be the prevalent language) and the Ganjam and Vizagapatam Agency Tracts. Such a scheme would solve the question of language once and for all. This change would relieve both the Central Provinces and Madras of a troublesome excrescence upon their administrative system: and it would result in handing over the Oriya problem to one Government alone, on a scale and with a unity that would admit of its being treated with consistency and efficiency.

16. If the objection be raised to this suggestion that, while in the earlier portion of this letter the Government of India advocated relief to Bengal, they are now proposing to add to its burdens, the answer will be found in the far more important changes that will be explained in the remaining paragraphs.

17. The effect of the proposals hitherto sketched on the population of the Central Provinces is shown in the following statement:—

Central Provinces.

—	Population in British Territory.	Total Population.	Population in British Territory.	Total Population.
Present Population . .	9,876,646	11,873,029		
Gains.				
Berar	2,754,016	2,754,016	=15,616,148	18,613,960
Chutia Nagpur (*minus* Manbhum and Singhbhum).	2,985,486	3,986,915		
Losses.				
Sambalpur (*minus* Phuljhar and Chandarpur) (169,727).	659,971	659,971	=659,971	1,608,391
Five Oriya Feudatories . .	...	948,420		
Total population .	...	...	14,956,177	17,005,569

18. The Governor-General in Council now turns to the concluding province which has a claim to gain in any redistribution scheme that may be put forward. It is now nearly 30 years since Assam was severed from Bengal, and 11 years since it received the only territorial addition that has subsequently been made to it. This was the Lushai Hills in 1892. In 1896-97 there was a prolonged discussion as to whether the Chittagong Division should also be transferred to Assam. But, though the project seemed at one time likely to take shape, it was eventually set aside for the time on grounds which have now ceased to have effect. The result is that Assam remains in much the same condition in respect of boundaries as when it was first created a Chief Commissionership, and is both the smallest and the most backward of the local Administrations. It contains an area of 56,000 square miles (nearly 53,000 British territory), a population of 6,126,000 (5,841,000 in British territory), and a gross revenue of 128 lakhs (land revenue 68 lakhs).

19. The Government of India are aware that the smallness and backwardness of Assam have been appealed to as supplying a sufficient argument against any expansion at all. They are inclined to entertain precisely the opposite view. In their opinion it is to its contracted area, to its restricted opportunities, to its lack of commercial outlet, to its alien services, and to the predominance in its life and administration of a single industrial interest depending in the main upon imported labour, that what has been described as the parochialism of Assam is due. The province requires an

impulse forward in all of these directions. It requires territorial expansion in order to give to its officers a wider and more interesting field of work. It requires a maritime outlet in order to develop its industries in tea, oil and coal. The paying portions of the Assam-Bengal Railway are in the south, and the whole line, if it is to be utilised in the interests of the province, ought to be under a single administration. Assam moreover will continue to be handicapped, so long as it is dependent for its service upon what it may be fortunate enough to borrow from Bengal. A province that can only offer the prize of one Commissionership, that is remote in locality and backward in development and organisation, will not attract the highest type of civilians to its employ. The Government of India regard it indeed as incontestable that, with a service recruited as at present and confined within the present limits, Assam will find extreme difficulty in attaining the level of a really efficient administration; and it is for this reason that, in considering the question of changes, they are impressed with the paramount necessity for making them on such a scale as will remove this fundamental source of weakness, and will, if possible, give to Assam a service of its own, offering a career that will attract and retain men of ability and mark. No temporary opposition in the transferred towns or areas, no artificial agitation or interested outcry, should in their opinion be permitted to divert the efforts of Government from the main object, *viz.*, the erection of Assam into a vigorous and self-contained administration, capable of playing the same part on the North-East Frontier of India that the Central Provinces have done in the centre, and that the Punjab formerly did on the North-West. If this end can be attained coincidently with a relief to the overburdened and congested administration of Bengal, the reform should be the more cordially recommended and the more readily approved. The Governor-General in Council will now proceed to explain the means by which he thinks that this object may be secured.

20. The Chittagong Division consists of four Districts with an area of 11,770 square miles, a population of 4,737,000 and a land revenue of $31\frac{3}{4}$ lakhs. Attached to it is the Native State of Hill Tippera, with an area of 4,000 square miles, and a population of 173,000. It has already been mentioned that the incorporation of these areas with Assam has more than once been under discussion; while a reference to the papers on the last of these occasion, *viz.*, in 1896-97, will show that it was then postponed rather than vetoed, the reasons against its acceptance being mainly of a temporary character, which have since disappeared. There is now a strong consensus of official opinion in favour of the change, and the people of Chittagong themselves, who have previously been opposed to the transfer, are understood to have changed their view and to be largely in favour of the change.

21. The main arguments in its favour, in addition to the above consensus of authoritative opinion, are the following:—

(*i*) The port of Chittagong has not attained the full development of which it appears to be susceptible under the administration of

Bengal. In any case, it cannot have been easy for a local Government dominated by the interests of a great port like Calcutta, to do much towards promoting the advancement of a humble rival, situated so short a distance away. The Chittagong Port Trust is in consequence in a somewhat unsatisfactory condition, and it has been necessary to consider special measures for adding to its revenues. If on the other hand Chittagong were added to Assam, these special drawbacks might be expected to disappear. There would be every inducement to the Local Government to develop the port, since the entire interests of the province, financial, industrial and commercial, would be involved in its welfare. Already the advent of the railway has caused a considerable stir in Chittagong, and the value of land is rising with startling rapidity. The Government of India entertain no doubt that Chittagong, if transferred to Assam, will find a great future awaiting it, and that the port will gain equally with the internal industries of which it is the maritime outlet, and whose produce demands easy and rapid access to the sea. Further, there can be little doubt that Chittagong, even if it did not become the cold weather headquarters of the Chief Commissioner, must at least receive a great deal of his attention and time.

(*ii*) The Assam-Bengal Railway will be administered with a greater regard to the interests of the province if it is placed under single instead of divided control. If the heavy expenditure incurred on this line is to be justified, if its mountain sections are to be really utilised in the exploitation of the country, it can only be by a fusion of interests between the upper and lower portions of the line; and to this a single administration will powerfully contribute. The junction between the two portions of the railway is on the verge of being effected; only a small section between Badarpur and Lumding remains to be finished; and then the oil-wells of Digboi and Makum, the coal-mines of Margharita, and the tea plantations of the Upper Brahmaputra, will be placed in unbroken connection by rail with the Bay of Bengal.

(*iii*) There is no distinction, but, on the contrary, the closest resemblance between the condition of the people and the administration in the Chittagong Division, and those in the neighbouring Assam Districts of Sylhet and Cachar. The systems of land settlement and tenure are the same in both areas; the inhabitants are identical in race, religion and language. The objections which were raised thirty years ago to the absorption of Sylhet and Cachar in Assam have proved to be unfounded: and if those districts were now to be given the option of re-union with Bengal, the Government of India believe that they would decline the offer.

22. To the arguments that have on previous occasions been brought, or that might be brought now, against the change, a sufficient reply is, in the opinion of the Government of India, in each case forthcoming.

(*i*) A fear has been expressed that the people of Chittagong would suffer by being subjected to an inferior standard of law and

administration. There does not appear, however, to be any ground for this apprehension. For it is certain that there would be no change either in the class of officers employed, or in the administration of the law, while all the operations of Government would receive closer supervision from the Chief Commissioner of Assam than they can possibly meet with from the Lieutenant-Governor of Bengal.

(*ii*) A similar fear has found vent that Chittagong would be removed from the jurisdiction of the High Court of Calcutta. This also is a groundless alarm, for the jurisdiction would remain as now.

(*iii*) The loss of the control of the Bengal Board of Revenue has also been cited as a serious deprivation. The same thing was said in 1874 of Sylhet and Cachar. Under the present system the Chief Commissioner of Assam acts as Commissioner for those two districts, which do not appear to have suffered under his charge. This system will, of course, cease if Assam is enlarged to the full extent which the Government of India contemplate, and the contrast will then be between administration by a Board of Revenue and administration by a Chief Commissioner as in the Central Provinces. On various grounds the Government of India are disposed to prefer the latter system. In connection with this question it should be noted that in 1896 the members of the Bengal Board of Revenue were themselves strongly in favour of the transfer of Chittagong, and only advocated its postponement until the new settlement had been concluded and the railway finished; while Sir A. Mackenzie wrote in Mr. Bolton's letter of 13th August 1896—" There will be a temporary disadvantage in having to prefer revenue appeals before what will be at first an inexpert tribunal; but the Assam Administration will soon master the subject, specially as the local ministerial establishments, who are familiar with the records, would also be transferred, and the Board of Revenue in Bengal could always be consulted ".

(*iv*) There remains the loss to Chittagong of what Sir A. Mackenzie, in the same letter described as " its fractional interest in the Bengal Council ". The value of this asset is, in the present conditions, small. Moreover, such as it is, its loss would be more than compensated if Assam (presuming it to receive the larger instead of the smaller expansion under discussion) were to share a seat on the Legislative Council of the Governor General with the Central Provinces, furnishing a member alternately with that administration.

23. The foregoing proposals will have some effect in extending the possibilities of the development of Assam and diminishing its drawbacks. But in the opinion of the Governor General in Council they will still fall short of providing it with that which is the real secret of efficient administration, *viz.*, a self-contained and independent service. Moreover the union of the Oriya-speaking people under Bengal will involve a substantial addition to its population in the south, while the transfer of the greater part of Chutia Nagpur and the whole of the Chittagong Division with Hill

Tippera will only bring about a net reduction of some five millions in the population now subject to the Lieutenant-Governor. It is clear that this would represent no great advance in the direction of affording relief to Bengal from its present excessive burden. It is mainly from these two points of view—the necessity of improving the Assam services and of reducing the responsibilities of Bengal—that the Government of India now proceed with a further suggestion, namely, the proposal to incorporate with Assam the districts of Dacca and Mymensingh.

24. These two districts of Eastern Bengal contain an area of 9,000 square miles, a population of 6,564,000, and a land revenue of 17 lakhs. Their association with Assam was first suggested by Sir W. Ward, Chief Commissioner, in 1896. It was opposed by his successor, Mr. (now Sir H.) Cotton, in 1897. It has been discussed in a tentative manner by the present Chief Commissioner. Mr. Fuller sees how greatly the transfer would be to the interest of his province, but he also recognises the difficulties, and he entertains some apprehension at the idea of Assam being swallowed up by Eastern Bengal. On the other hand, the transfer is strongly recommended by other authorities.

25. Apart from the broader considerations to which attention has already been called, the arguments for the transfer may be stated as follows:—

(*i*) Geographically, Dacca and Mymensingh are separated by a clear line of division, *viz.*, the main channel of the Brahmaputra River, from Bengal. If they are joined to Assam, the latter will possess a definite and intelligible western boundary, whereas if the Chittagong Division is assigned to Assam, and Dacca and Mymensingh are left with Bengal, then the two latter districts will constitute a projection from the main body of Bengal obtruding itself into the heart of Assam, from which they will be separated by no ties either of origin, language, religion, or administration.

(*ii*) Not only will the transfer enable Assam to obtain an independent service, but that service would possess three separate Commissionerships, which would be its prize appointments. These would be (1) the Brahmaputra valley or Assam proper; (2) Dacca, to which would be added Sylhet and Cachar; (3) Chittagong.

(*iii*) The proposed transfer of Chittagong to Assam would constitute Chittagong the port of Assam. Equally would it be the port of Dacca and Mymensingh, of which it is the natural commercial outlet. Though the associations of these two districts have hitherto been almost exclusively with Bengal, yet the connection between them and Calcutta is from the physical point of view both arbitrary and unnatural, the numerous intervening rivers rendering communication difficult and slow.

(*iv*) There remains an argument to which no small weight attaches and which cannot be left out of consideration. The Government of India have reason to believe—and their impressions were strongly confirmed by the enquiries of the Police Commission—

that there is no portion of Bengal where the drawbacks of an imperfectly supervised administration are more evident than in these outlying districts on its eastern border, and that nowhere is the absence of close and intimate touch between the officers of Government and the people more apparent or more regrettable. The Government of India believe that it would be an undoubted advantage to Bengal to lose these elements of weakness; and that the population and interests of the districts in question would be materially the gainers if they were brought into closer contract with the officers and the head of the local administration.

26. On the other hand the Governor-General in Council thinks it not unlikely that the proposal which has been here put forward may meet with keen criticism and perhaps in parts with strenuous opposition. The lines which such opposition may be expected to take will probably be the following:—

(*i*) The change will doubtless be represented as one of a retrograde character, tending to place a highly advanced and civilised community under a relatively backward administration. The influence of those sections of the local population, whose associations have hitherto lain with Calcutta and who appreciate a gravitation that draws them towards the capital both of a great province and of the Government of India, will be thrown into the same scale. These objections are deserving of consideration, but they are not of course of capital importance. They were successfully and wisely disregarded in the case of Sylhet and Cachar. They were formerly advanced, but have now been waived, in the case of Chittagong. As obstacles to an agreement by common consent they may be powerful now. But their weight is one that must be measured against the vastly superior interests at stake, and that will rapidly dwindle (should the change be effected) and before long disappear. The nearest analogy that occurs to the Government of India is that of the Talukdars of Oudh, who protested vigorously against their incorporation with the North-Western Provinces nearly half a century ago, but who have long ago acquiesced in the change, and would now equally resent a reversion to the *status quo ante*. But there is this remarkable difference, that whereas the Talukdars were many, there are comparatively few considerable zemindars in the area under examination, and they would gain in status and consideration by becoming the recognised magnates of a self-contained and progressive province.

(*ii*) It is possible that objections may be advanced on judicial grounds. The Government of India can see no reason why this should be the case, since the jurisdiction of the High Court of Calcutta over these districts would remain unaltered. Mr. Melitus, the Commissioner of the Assam Valley, remembering that in 1880 the High Court themselves suggested the appointment of a Judicial Commissioner at Dacca, has revived the idea. The Government of India, as at present advised, do not see its advantages; and they are disposed to think that the inhabitants of the district would probably prefer the continuance of the present

system, which would, as Mr. Fuller has pointed out, open up an avenue of possible promotion to the eight Judges serving in Assam.

(*iii*) Finally, there is the argument, suggested by the Chief Commissioner himself, that if Assam were thus enlarged, it would be swamped by the area added to it, and that the change would in effect be rather the annexation of Assam by Eastern Bengal, than the transfer of Eastern Bengal to Assam. To the Government of India these fears appear to be, if not exaggerated, at any rate not formidable. Moreover, as has been observed above, they are disposed to think that the predominance of a single labour question and a single industrial interest in Assam is not on the whole advantageous. The province as reconstructed would acquire a new and composite character; but this character would not be more composite than is found in many other Indian administrations, while it would add to the importance and variety of the whole.

27. Balancing the arguments on either side and bearing in mind the permanent considerations mentioned in paragraph 25, the Government of India are decidedly in favour of the addition of the districts of Dacca and Mymensingh, as well as of the Chittagong Division, to Assam.* They believe that this transfer would be the most efficient means for securing the end that they have in view, *viz.*, the ultimate benefit of the community, and the progressive improvement of the administration as a whole.

28. In conclusion, I am to state the figures for Bengal and Assam as they will stand, if the proposals of the Government of India are carried into execution. It will be observed that they relieve Bengal to the extent of 11 millions of people, and that they place Assam almost exactly upon the same level with the Central Provinces, namely, 17 millions.

BENGAL—Present population	78,493,410		
Gains.		*Losses.*	
Sambalpur (from Central Provinces) . . .	659,971	Chittagong Division and Hill Tippera (to Assam) . . .	4,911,056
Feudatory States (from Central Provinces) .	948,420		
Ganjam District (from Madras) . . .	1,689,142	Dacca and Mymensingh (to Assam) . . .	6,564,590
Ganjam and Vizagapatam Agency Tracts (from Madras) . . .	1,172,102	Chutia Nagpur (to Central Provinces) . .	3,986,915
	4,469,635		15,462,561
Net loss to Bengal . .	10,992,926	Future population .	67,500,484

ASSAM—Present population	6,126,343
Gains.	
Chittagong (from Bengal)	4,911,056
Dacca and Mymensingh (from Bengal) . .	6,564,590
Net gain to Assam	11,475,646
Future population	17,601,989

I am to ask that the Government of India may be favoured with a full expression of the views of the Lieutenant-Governor on the reconstruction of Bengal that is proposed in this letter and the effect of which is summarised in the foregoing statement.

APPENDIX IV.

PARAGRAPHS 11 AND 20 OF THE GOVERNMENT OF INDIA'S DESPATCH, DATED THE 25TH AUGUST 1911, ADDRESSED TO THE SECRETARY OF STATE.

* * * * *

11. If the headquarters of the Government of India be transferred from Calcutta to Delhi, and if Delhi be thereby made the Imperial capital, placing the city of Delhi and part of the surrounding country under the direct administration of the Government of India, the following scheme, which embraces three inter-dependent proposals, would appear to satisfy all these conditions:—

I. To reunite the five Bengali-speaking divisions, *viz.*, the Presidency, Burdwan, Dacca, Rajshahi and Chittagong divisions, forming them into a Presidency to be administered by a Governor-in-Council. The area of the province will be approximately 70,000 square miles and the population about 42,000,000.

II. To create a Lieutenant-Governorship-in-Council to consist of Behar, Chota Nagpur and Orissa, with a Legislative Council and a capital at Patna. The area of the province would be approximately 113,000 square miles and the population about 35,000,000.

III. To restore the Chief Commissionership of Assam. The area of that province would be about 56,000 square miles and the population about 5,000,000.

* * * * *

20. We now turn to the proposal to create a Lieutenant-Governorship-in-Council for Behar, Chota Nagpur and Orissa. We are convinced that if the Governor of Bengal is to do justice to the territories which we propose to assign to him, and to safeguard the interests of the Mohamedans of his province, Behar and Chota Nagpur must be dissociated from Bengal. Quite apart, however, from that consideration, we are satisfied that it is in the highest degree desirable to give the Hindi-speaking people, now included within the Province of Bengal, a separate administration. These people have hitherto been unequally yoked with the Bengalis, and have never therefore had a fair opportunity for development. The cry of Behar for the Beharis has frequently been raised in connection with the conferment of appointments, an excessive number of offices in Behar having been held by Bengalis. The Beharis are a sturdy loyal people, and it is a matter of common knowledge that, although they have long desired separation from Bengal, they refrained at the time of the Partition from asking for it, because

they did not wish to join the Bengalis in opposition to Government. There has, moreover, been a very marked awakening in Behar in recent years, and a strong belief has grown up among Beharis that Behar will never develop until it is dissociated from Bengal. That belief will, unless a remedy be found, give rise to agitation in the near future, and the present is an admirable opportunity to carry out on our own initiative a thoroughly sound and much desired change. The Oriyas, like the Beharis, have little in common with the Bengalis, and we propose to leave Orissa (and the Sambalpur district) with Behar and Chota Nagpur. We believe that this arrangement will well accord with popular sentiment in Orissa and will be welcome to Behar as presenting a sea-board to that province. We need hardly add that we have considered various alternatives, such as the making over of Chota Nagpur or of Orissa to the Central Provinces, and the creation of a Chief Commissionership instead of a Lieutenant-Governorship for Behar, Chota Nagpur and Orissa, but none of them seem to deserve more than passing consideration, and we have therefore refrained from troubling Your Lordship with the overwhelming arguments against them. We have also purposely refrained from discussing in this despatch questions of subsidiary importance which must demand detailed consideration when the main features of the scheme are sanctioned, and we are in a position to consult the local Governments concerned.

* * * * *

APPENDIX V.

The Philip-Duff Enquiry Report

REPORT ON ENQUIRY INTO ATTITUDE OF ORIYA-SPEAKING POPULATION OF THE MADRAS PRESIDENCY TOWARDS AMALGAMATION WITH OTHER ORIYA-SPEAKING TRACTS.

Resolution by the Government of India, Home Department, No. F.-669/22-Public, dated Simla, the 1st October 1924.

The following Resolution was moved by Mr. Sachchidananda Sinha in the old Imperial Legislative Council on the 20th February 1920:—

> "This Council recommends to the Governor-General in Council that a mixed Committee of non-officials and officials be appointed to formulate a scheme for the amalgamation of the Oriya-speaking tracts at present administered or controlled by the Governments of Madras, Bengal and the Central Provinces, with the existing Orissa Division of the province of Bihar and Orissa".

And in accordance with the promise then made on behalf of Government much information on the subject has been collected.

2. The most important areas in British India inhabited by Oriya-speaking peoples, which are not now included in Orissa, are

contained in the Ganjam and Vizagapatam Districts of the Madras Presidency. The Governor-General in Council is not, however, satisfied as to the wishes of the Oriyas in these areas. There may or there may not be a genuine desire on the part of these Oriyas to be amalgamated with the Oriyas of Orissa and it is clear that if there is no such desire further steps towards amalgamation should not be taken at the present juncture. The Governor General in Council has therefore decided to depute two officers, of whom one should be nominated by the Madras Government, to make detailed enquiry on the spot regarding the attitude of Oriya inhabitants of the Madras Presidency towards the question of the amalgamation of the tracts inhabited by them with Orissa. The Governor-General in Council has nominated Mr. C. L. Philip, I.C.S., at present Political Agent, Orissa Feudatory States, and the Government of Madras has nominated Mr. A. C. Duff, I.C.S., at present Collector of Bellary in the Madras Presidency, for this duty. These officers will carry out the enquiry jointly and report to the Government of India. The enquiry will begin at once.

ORDER.—Ordered that a copy of the above Resolution be published in the *Gazette of India* and communicated to The Government of Madras, Mr. C. L. Philip, I.C.S., Mr. A. C. Duff, I.C.S.

LETTER FROM MESSRS. PHILIP AND DUFF, ORIYA AMALGAMATION ENQUIRY, TO THE SECRETARY, GOVERNMENT OF INDIA, HOME DEPARTMENT, DELHI, DATED CAMP CUTTACK, THE 26TH DECEMBER 1924.

We have the honour to send herewith our report in accordance with Government of India Resolution No. F.-669-Public, Home Department, dated Simla, the 1st October 1924. The enclosures referred to in the report are despatched in a separate registered parcel. Signatures and petitions are being sent by passenger train as the package is too bulky to be sent by post: the rail receipt will follow. We completed our duties on the afternoon of 26th December 1924. To cash bills our clerk is being sent back to Berhampore and will relinquish his duties there. A final statement of accounts will be despatched by Mr. Duff from Bellary early in the new year.

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REPORT ON ORIYA AMALGAMATION ENQUIRY.

1. *Scope of Enquiry.*—Under the terms of Government of India Resolution, Home Department, No. F.-669-Public, dated 1st October 1924, we were appointed "to make detailed enquiry on the spot regarding the attitude of Oriya inhabitants of the Madras Presidency towards the question of the amalgamation of the tracts inhabited by them with Orissa".

2. *Area affected.*—The skeleton map supplied to us by the Government of India, and based on census figures of 1921, shows that the tracts inhabited by Oriya-speaking people in the Madras Presidency correspond roughly with the Jeypore Estate and the Ganjam district. In the Jeypore Estate the census figures show that the Malkanagiri, Padwa, Pottangi, Rayagada, Bissemkatak and Gunupur Taluks contain less than 50 per cent. of Oriya-speaking inhabitants. We thought it unnecessary, therefore, to visit those areas though we did travel through the Pottangi Taluk. Similarly in the Ganjam District we did not visit the purely Telugu areas of Chicacole and Narasannapet and confined our enquiries in the Ganjam Agency, where the people are mostly Khonds and Savaras, to a short tour in the Ghumsur Udayagiri Taluk, obtaining also the opinions of a number of leading "Muthadars" of other parts.

Though both Oriyas and Telugus question the accuracy of the census figures as showing the proportions of Oriya and Telugu-speaking people, and though from our local experience we find that these figures apparently in some areas include and in some exclude Oriya-speaking aboriginal people, we consider from our observations on the spot that they give a sufficiently correct idea of the facts for the purpose of the present enquiry.

3. *Method adopted.*—On receipt of the orders of appointment and before starting the detailed local enquiry we addressed the Collectors of both districts, published notices, and a preliminary tour programme in the local papers, and opened correspondence with numerous officials and non-officials interested in the question. We each visited the headquarters of our respective Governments to study the previous papers on the subject and to acquire information likely to be of assistance. Mr. Philip arrived at Berhampore on the 28th October to make final arrangements with the local officials regarding the tour, to collect information about the district, and to receive the written statements of various individuals and bodies previously called for. He proceeded to Vizagapatam on the 8th

November for the same purpose and was joined there by Mr. Duff on the 12th November. We then published a revised tour programme and informed prominent individuals, public bodies, and organized Associations, that we would interview them at the dates and places given in the programme. In accordance with this plan, we have throughout our tour interviewed many individuals, official and non-official, heard the views in detail of numerous deputations, and received addresses from the public at all places of importance. We have in addition visited many way-side villages and conversed with large numbers of raiyats. Though owing to the cyclones of last year and this we were put to considerable difficulty in moving about the country, we were still able to visit a sufficient number of villages to give us a sound idea of the views of the cultivating classes.

A copy of our tour programme and a map showing the routes followed is attached to the report as Enclosure 'A'.*

Enclosure 'B'* which deals with Ganjam only is divided into five parts. The first contains copies of the addresses read to us personally at different centres; the second contains resolutions passed by various associations and public meetings and forwarded to us by post; the third contains précis provided by several of the deputations interviewed by us; the fourth contains a selection of the written opinions of the more important individuals; the fifth contains resolutions on the question passed by such Local Boards as have considered it.

4. *Attitude of Oriya inhabitants of Vizagapatam District.*—The Maharaja of Jeypore has given his opinion against amalgamation as far as the Vizagapatam Agency is concerned in the statements in Enclosure 'C'.* We also saw him personally at Waltair, but he did not then add anything to what he had set forth in his written statements, which give detailed reasons for the view that he holds.

The views of the Oriya inhabitants of the district were obtained by us at Waltair and during our tour through the Koraput Agency: resolutions passed at various public meetings were also forwarded to us. A selection of these is included in Enclosure 'D'* along with the opinions of prominent individuals and a copy of an address presented to us at Waltair by a deputation of representatives from various parts of the district presided over by Sreeman Vikrama Deo Varma, President of the Utkal Samaj, Vizagapatam. These all express a desire for the amalgamation with Orissa of the tracts inhabited by the Oriya-speaking people of the district. Some of these statements come from areas which are sparsely inhabited by Oriya-speaking people and do not require much consideration at present; and many of the figures and general assertions given in the detailed arguments used by the Vizagapatam Utkal Samaj and in the Vizagapatam address are misleading. Their claim that the whole of the Vizagapatam Agency is largely populated by Oriya-speaking people and that the hill tribes are closely allied to Oriyas is incorrect. Census figures show a preponderance of Oriya-speaking

* Not printed.

people in Koraput, Jeypore and Naurangpur Taluks and nowhere else throughout the Vizagapatam Agency. With the exception of the Savaras in Gunupur Taluk and scattered Kolarian tribes elsewhere the majority of the hill tribes are in origin Dravidian. It is true that in the three taluks where Oriya is shown as the prevailing language numbers of the hill men have adopted Oriya. In those taluks we found on our tour that the Brahmins and other high caste Hindus were largely descendants of immigrants brought into and settled in the Estate by previous Rajas. Representatives of these families and other educated Oriyas whom we interviewed at Koraput, Jeypore and Naurangpur expressed a strong desire for amalgamation with Orissa, but when we reached villages where their influence had not penetrated we found either a total ignorance of the question or merely a desire for the continuance of the Oriya language without any conception of the meaning of amalgamation. The president of the Union Board of Jeypore, who was the chief spokesman for the local deputation, admitted that most of the 8,727 signatories to the petitions for amalgamation presented to us from the Agency were Brahmins and Koronos as these were almost the only literate classes and that the cultivating classes had no opinion on the matter.

5. *Opinions of Zemindars of Ganjam.*—The opinions of the Zemindars of Ganjam are summarised in the Resolution passed at a meeting of the Zemindars' Association at Berhampore on the 2nd November 1924. Enclosure 'E' (1)* is a copy. It was proposed by the Rajah of Parlakimedi, seconded by the Zemindar of Khallikote and Atagada and carried unanimously "that this Association is of the opinion that for the advancement of the Oriyas it is absolutely necessary that all the Oriya-speaking tracts be brought under one administration".

Mr. T. V. Narasinga Rao, a Telugu Malukdar of Aska Taluk, who was present at that meeting, later stated before Mr. Duff at Aska and submitted to us a representatoin [Enclosure 'E' (7)]* in which he said that he was not in favour of the partition of Ganjam and the amalgamation of any part of it with Orissa, and that when the resolution quoted above was discussed it was distinctly understood that amalgamation with Orissa as a separate province was meant. We have been given good reasons to believe that the statements made in this representation are incorrect. The Malukdar did not take any part in the discussion at the meeting.

During our tour we interviewed the Zemindars of Parlakimedi, Khallikote and Atagada, Dharakote, Mandasa, Chikati, Bodogada, Sergada, Surangi, Tekkali, Nandigam, Tarla, the Proprietor of Baruva, and the Malukdars of Aska. With the exception of the last named, who will be referred to in a separate paragraph, all expressed themselves as in favour of amalgamation of the Oriya-speaking tracts under one administration. They considered generally that socially, economically and politically the Oriyas would be benefited by the union and though some doubts were expressed, as by the

* Not printed.

Rajah of Parlakimedi who thought that he might have some trouble with his Telugu raiyats and by the Zemindar of Sergada who considered that amalgamation might result in some personal loss to the Zemindars of Ganjam, they were unanimous in the opinion that for the good of the Oriya community as a whole union was essential. All were further unanimous in the opinion, which was strongly expressed, that no estate should be partitioned and that all the Oriya estates should be transferred together. They were definitely against any suggestion that any estate belonging to an Oriya Zemindar should be left under a separate administration on account of a majority of its inhabitants being Telugu.

The question of the form which the united administration would take is outside the scope of the present enquiry but on this point it seems desirable to note that the opinions of some of the Zemindars were indefinite and that other did not care for amalgamation with Bihar. They seemed to prefer the idea of a separate Orissa. The Rajah of Parlakimedi did not think that any advantage would be gained if Ganjam were brought under Bihar and Orissa, but was not prepared to discuss the problem in detail. The Zemindar of Mandasa did not much like the idea of Bihar and said he was quite happy under the administration of Madras; while he thought that it would be a good thing for the Oriyas to be united in one province he admitted the financial difficulty of a separate Oriya province and suggested that a combined Oriya and Andhra province with its capital at Vizagapatam would be a practicable and useful proposition. The Zemindar of Dharakote thought that a separate Orissa would be financially possible, but in any case the Oriyas would benefit by being united under one administration. The Zemindar of Bodogada was desirous of a separate Orissa: till that eventuated he thought that the Oriyas would be able to get along under Bihar and Orissa but feared that the Bihari and Oriya problem would be just as bad as the Telugu and Oriya problem now is and that there would not be much advantage in going over to Bihar and Orissa if a separate Orissa was not ultimately formed. The Zemindar of Nandigam held the same views but when told that there were practically no Biharis in Orissa proper he said that, in that case, he would not object to amalgamation with Bihar and Orissa.

The Zemindar of Khallikote and Atagada, who is President of the District Board of Ganjam, of the Zemindars' Association of Ganjam and of the Khallikote College, Berhampore, is definitely of opinion that a separate Orissa is financially impracticable, that a union of Orissa with Andhra province would be distinctly injurious to the Oriyas, and that the immediate amalgamation of the Oriya-speaking tracts of Madras with Orissa is essential for the interests of all classes of Oriyas whether they be zemindars or raiyats. His written statement [Enclosure ' E ' (2)]* puts the case very clearly and may be taken as expressing the views of all the Oriya Zemindars of the district.

* Not printed.

The Raja of Bobbili is the owner of the Biridi Estate and the Raja of Vizianagram is the owner of the Jalantra Estate in Ganjam district. Both these Zemindars own extensive estates in the Vizagapatam district. They have given their opinion in favour of amalgamation and their letters are Enclosures 'E' (3) and 'E' (4).* The Raja of Vizianagram has no objection to the proposal for amalgamation. The Raja of Bobbili thinks that though amalgamation with Orissa will cause some administrative inconvenience to himself this must be over-looked in view of the fact that the Oriya population of the Biridi Estate unanimously desires amalgamation.

6. *Opinion in areas where population is less than 50 per cent. Oriya-speaking.*—The map already referred to shows a considerable area in the Vizagapatam district as containing an Oriya population varying from 10 per cent. to 50 per cent., but that area we have dealt with in a separate paragraph. We are here concerned with similar tracts in the Ganjam district excluding the Agency which we discuss elsewhere.

In the Chicacole taluk including Narasannapeta the map shows that the Oriya population is negligible. There we made no detailed enquiries though we have received representations from interested parties living in that area, which will be referred to in the paragraph dealing with the Telugu opposition to amalgamation.

The most important area to be considered now is the Parlakimedi Zemindary Taluk; to the South East and East thereof lie the smaller estates, of Tekkali, Pata Tekkali, Nandigam, Tarla, Baruva, Bodorsingi, Jalantra and Mandasa. Still further Eastward there are considerable areas in Surangi, Chikati and the Ichchhapuram Government Taluk which have a preponderating Telugu population, but as the balance is shown as in favour of Oriyas East of Sompet these latter three areas can be more suitably clubbed with Berhampore Taluk.

The Parlakimedi Estate is owned by an Oriya Zemindar, who is looked up to as the leading Oriya Zemindar of Ganjam partly owing to his family connection with the ancient line of Puri Rajahs. There is an undoubted solidarity among the Ganjam Oriya Zemindars who are interrelated and also bound by numerous ties with the feudatory chiefs and zemindars of Orissa. Although therefore it cannot be denied that the majority of the population of the Parlakimedi Estate is Telugu, we felt that the Rajah's opinion must carry great weight and we considered it incumbent on us to make a more detailed investigation in Parlakimedi than perhaps the percentage of Oriya-speaking people justified.

Parlakimedi town itself is divided between Oriyas and Telugus. Among the Oriyas of the town, where there are important educational institutions and where the majority of the educated people of the Estate is congregated the desire for amalgamation is certainly unanimous. This desire was manifested at an enthusiastic meeting which we attended in the Rajah's College. There was no counter-

* Not printed.

demonstration in the town itself though that does not mean that there is no opposition. There has been little or no counter-propaganda anywhere, whereas the numerous amalgamation societies have been most active throughout the district in securing support to their cry for union with Orissa. We made extensive tours in the interior of the estate, to Varanasi in the West, to Uppalada in the North and to Nautala in the South. On our journey to Varanasi we were met at various places by demonstrations in favour of amalgamation, but very few of the people knew anything definite about the problem. Those who had any opinion to express at all were in the main anxious about the continued and more extensive use of the Oriya language, for the constant complaint was that Oriya was not understood in Courts, Post Offices and other places where official business was transacted. Though we had repeated complaints about educational disabilities we found that in proportion to the population the Elementary Schools had in fact a very fair number of Oriya teachers. The villages along the Varanasi road are very mixed in character. Some are almost purely Telugu, some largely Oriya, and in many the proportion of Telugus to Oriya is about half and half. Often the Oriyas claimed a preponderance of Oriya-speaking houses in their village, though we found on closer enquiry that in fact the Telugus were equal to if not greater in number than the Oriyas. In one village Minigam where Telugus were in a large majority they knew nothing about amalgamation and cared nothing. The headman was indifferent and said that if the Taluk was transferred provided they kept their land they would be quite content. At Kharigam the Telugus were definitely opposed to amalgamation, but close by at Kharoda one Telugu said distinctly that he wanted amalgamation. In Varanasi itself we met the first definite counter-demonstration. The headman claimed the country as Telugu country into which Oriyas had immigrated while the Oriyas made the usual counter claim.

Southwards from Parlakimedi the population becomes more and more Telugu, but opinion is for the most part non-existent or indifferent.

On our tour northwards we found a certain amount of opposition from Telugus, and by chance in a few cases complete ignorance among some Oriyas. In fact where there had been propaganda there were demonstrations, where there had been none there was indifference.

Our conclusion as far as Parlakimedi is concerned is that the educated Oriyas desire amalgamation, and that though the majority of the inhabitants of the Estate are Telugus, they really do not care much what Government they are under provided they keep their lands. Comparatively few Oriyas know Telugu, the language difficulty for them is, therefore, real. But very many of the Telugus know Oriya, they are by common consent more intelligent, more pushing and better cultivators, more capable of adapting themselves to possible changes, and therefore less likely to suffer from the comparatively small inconveniences which form the burden of the Oriya complaint. In fine, if the major portion of

Ganjam including most of the Zemindari areas is taken from Madras it is only natural that the Parlakimedi Estate should go with the majority, and we cannot find that the Telugu inhabitants anticipate much inconvenience from the possible change.

In Tekkali, there was a very noisy Oriya demonstration, in spite of the fact that the Telugus are in the majority throughout the Estate and the neighbouring small Zemindaries. Local bodies are clearly controlled by Telugus and the local Christian Mission is a Telugu Mission, and not an Oriya one. But the Zemindars are Oriyas, though there are a few so called " Malukdars " purchasers of small estates, who are Telugus. There was also an Oriya demonstration at Palasa close to Tarla led by the Zemindar, and at Mandasa we received addresses and deputations under the aegis of the Mandasa Zemindar. One interesting petition was presented to us at Mandasa from a " Kampo ". He claimed to be an Oriya and favoured amalgamation though he himself knew no Oriya. He belongs to the caste common in Ganjam, claimed by the Telugus as a Telugu caste called " Kapu " and by the Oriyas as an Oriya caste called " Kampo ". One Tamil Brahmin, a native of Mandasa, also favoured amalgamation with Orissa in the hope of escaping the Brahmin non-Brahmin controversy which at present dominates the political atmosphere of Madras.

Our conclusions for the area up to and including Mandasa and Baruva are the same as for Parlakimedi.

7. *Area where population is 50 per cent. to 75 per cent. Oriya.*— According to the map this area begins in the neighbourhood of Ichchhapuram and Chikati and includes the large commercial centre Berhampore, the most important town in the district. A map prepared from census figures compiled taluk by taluk cannot pretend to minute accuracy. In reality the inhabitants along the coast even further north-east than Berhampore are largely Telugus, and in Berhampore town itself there are more Telugus than Oriyas, but inland the percentage is much more in favour of Oriyas and it is obvious that no line of demarcation within this area is feasible.

At Ichchhapuram we received addresses and deputations from Ichchhapuram town and taluk, Surangi Zemindary and Jarada. Clearly the educated Oriyas want amalgamation with Orissa for reasons social, religious and political, but the ordinary people, as Sriman Lal Mohan Patnaik, President of the local Oriya Samaj, said, are merely anxious about the use of the Oriya language in Courts and other offices. One complaint in particular was brought to our notice in Ichchhapuram to the effect that, although the Oriyas in the union area numbered 4,000 as against 6,000 Telugus, the Wards were so jerrymandered that the Oriyas could not exercise their full voting power. It was also admitted that Oriyas took little interests in local politics and by reason of their ignorance and indifference were easily persuaded to vote for Telugus.

In Chikati Estate, the proportion of Oriyas is above fifty per cent.; to the north the people are almost entirely Oriyas, and southwards they are largely Telugus. We heard four deputations at

Chikati, two from local, social and political association, one from the Koronos' Association and one from the Amalgamation Committee. All asked for amalgamation but there was a marked inclination to avoid a definite pronouncement regarding the possibility of amalgamation with Bihar and Orissa as opposed to amalgamation with a separate Orissa province. The Koronos' complaint is that their hereditary vocation being clerical and the Telugu influence being paramount in Government service they have to learn Telugu for official purposes and are losing their Oriya identity. A fairly well educated Brahmin of Chikati who knew no English told us he did not know what was the capital of Bihar; a Bhandari who had passed the School Final Examination of the Madras University did not know where Patna was. During a morning's drive northwards from Chikati we questioned several local villagers. Many knew nothing of the agitation, others told us the usual story about the difficulty of writing letters and understanding notices in Telugu.

Berhampore is at present the headquarters of the " Amalgamation Committee " which is responsible for all the recent propaganda. The Committee was specially formed as a sub-committee of the Utkal Union Conference for the purposes of the present enquiry. Naturally, therefore, we received several influential deputations at Berhampore and the mass meeting which was attended was most enthusiastic. We also heard the opinion of the Telugus who constitute the majority of the population in Berhampore town itself. That will be dealt with in a separate paragraph. Addresses and individual statements of importance will be found in Enclosure 'B'.*

I. The Amalgamation Sub-Committee appeared before us first. It is an offshoot of the Utkal Union Conference which was started in 1903 after the Ganjam National Conference of 1901. The original history of the Conference movement will be found in the statement of Zemindar of Khallikote (Enclosure E-2).* It is representative of all the Oriyas of the district and one of its Vice-Presidents is Sriman Vikrama Deo of Vizagapatam. The arguments advanced by this Committee and the other deputations are summarised in para. 10.

II. We also heard a deputation from the Ganjam District Association, a political body which formerly included Zemindars among its members, but now has none, owing to the fact that the activities of the leaders of the association favour the interests of the raiyats at the expense of the Zemindars.

III. The Oriya members of local bodies sent a deputation under the leadership of the Vice-President of the District Board.

IV. The Oriya Christian Community of Berhampore was represented.

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* Not printed.

V. The Congress Committee sent one representative Sriman Niranjan Patnaik, President of the Utkal Provincial Congress Committee.

VI. The Utkal Ashram is a social organisation.

VII. Teachers and Students expressed their views which are summarised in the notes prepared by Sriman S. Gantayet and filed as Enclosure B-III (4).*

VIII. Kavirajas and Pandits expressed their views in written memoranda.

IX. The Raiyats' Association represents cultivators and land-owners under Government. It is a recent formation called into being largely for the purposes of local election campaigns.

X. Finally we had a deputation of Oriya ladies who ordinarily do not appear in public at all. They pleaded that the very fact of their appearance before us was eloquent proof of their anxious longing for amalgamation.

These deputations expressed the views of the enlightened Oriyas of Berhampore and the surrounding area and were unanimous in favour of amalgamation. We gathered that they preferred a separate Orissa province, but were on the whole in favour of union with Bihar and Orissa for the time being in the hope of securing their ultimate object at a later date. There were nevertheless several individuals both at Berhampore and elsewhere who stated that it was immaterial to them what Government they might be under provided all Oriyas were under one Government.

From Berhampore we made two distant tours into the interior. The first took us to Purushottapur just north of the Rushikulya river north-eastwards from Berhampore. We visited several villages and talked with several raiyats by the road-side. It was amusing to find one Oriya who thought we had come to enquire about what he called the " Gandhi Raj ". There are colonies of Telugus in this direction but most of the people are Oriyas, and as propaganda did not appear to have been very vigorous in the neighbourhood we had no demonstration. At Purushottapur there is a Deputy Tahsildar Magistrate who is a Telugu. He showed us depositions recorded by him in Oriya, but he only seems to have adopted this habit recently though he spoke Oriya well enough.

The second tour was to Digupudi in the Bodokimedi Estate and to Patapur in the Sanokimedi estate. Both at the road-side and at the two centres mentioned we had demonstrations and addresses. Patapur is almost entirely Oriya. One Oriya Brahmin from an outlying village appeared to be entirely ignorant about the question, but in general the desire for amalgamation was unanimous.

8. *Area containing 75 per cent. and more Oriya-speaking population.*—The area for consideration in this paragraph includes the northern part of the Berhampore Taluk, the Aska and Surada Taluks with the estates of Dharakote, Sergada and Bodogoda and the Malukdari villages round Aska, the Ghumsur Government

* Not printed.

Taluk, the Chatrapur Government Taluk, the estates of Khallikote and Atagada, and the small estates of Biridi, Humma and Palur. We received road-side demonstrations everywhere and addresses and deputations at Aska, Dharakote, Sergada, Surada, Russellkonda, Chatrapur, Rambha, Khallikote, Kudala and Boirani. Very little comment is needed for wherever any opinion was expressed at all it was distinctly in favour of amalgamation. The opinions of the Zemindars and Malukdars are dealt with elsewhere and the arguments of the educated leaders are summarised in paragraph 10.

One or two minor points deserve mention. It was admitted by more than one educated Oriya that the masses had really no opinion on the matter until the question was explained to them by the leaders of the agitation. That is no doubt perfectly true; but it is also true that the ordinary raiyats experience the same language inconveniences as have been described in dealing with Parlakimedi and other areas. They have willingly subscribed their names or thumb marks to the numerous printed *mahazars* we have received, and they do in a vague sort of way hope for a millenium, little as they may understand the reasons which the leaders put in their mouths.

In the Ghumsur Taluk there are many Khond villages. Probably the Khonds there have adopted many Oriya customs, and are better acquainted with the Oriya language than the Khonds of the Agency. At any rate, they cannot be expected to have much to say one way or the other.

There is an important class of merchants throughout the area called Kalinga Komities. Our own enquiries in the interior villages satisfy us that though this caste was in origin Telugu the vast majority of them have lost their Telugu identity and speak and write Oriya almost exclusively and live on intimate terms with the Oriyas among whom they are settled. Some leading Kalinga Komities of Berhampore appeared with the Telugu deputation and strongly opposed this view. But in Berhampore though the Telugu element is strong, the Komities of the interior have trade connections with the big merchants of Berhampore and even the latter keep most of their accounts in Oriya.

9. *The Ganjam Agency.*—The first representative of the Ganjam Agency whom we met was the Bisoi of Gumma. He came to see us at Parlakimedi. We gathered that he was in favour of amalgamation with Orissa, but his ideas on the subject are nebulous. The usual claim was made at Parlakimedi that the Savaras, the aboriginal inhabitants of the southern part of the Ganjam Agency, were gradually becoming Oriyas in language and customs. It is certainly true that in the Agency schools in Savara country Oriya is the language of instruction; on the other hand we found that in the Parlakimedi Estate many of the so-called "Kapu" Savaras, who have abandoned their old language, dress and customs have in actual fact adopted Telugu and know no Oriya. That there is any affinity between Savaras and Oriyas is absurd. Propinquity and the language of the local traders and the local market centres will decide

what language will in the end oust the aboriginal dialects. These remarks apply equally to the claims put before us at Mandasa, Ichhapur, Chikati, Bodokimedi, Surada and Russellkonda. We expected to receive at Surada statements from some of the more important inhabitants of the southern Khond Agency, but the Zemindar of Korada alone sent us an expression of his opinion.

A visit to the interior of the Ghumsur Udayagiri Taluk completed our enquiry in the Ganjam Agency. Naturally the ordinary Khond cultivators proved to be entirely ignorant of the meaning of "amalgamation". It was perhaps surprising that in a large Khond village Kilikia within 3 miles of Udayagiri Mr. Duff could only find two Khonds who claimed any knowledge of the Oriya language, but that village happened to have no school. Where there are schools, though Khond is still really the sole language of the people, there must be an increasing number of hillmen who are acquainted with Oriya. The Kilikia village head's ideas on the subject were typically expressed in the words "if we have to go to Cuttack we shall die: if you join us with Cuttack we shall run away".

In the Ghumsur Udayagiri Taluk many of the "Muttah" heads are themselves Khonds. The Linepada "Moliko" whose village lies on the borders of Phulbani, expressed an emphatic dislike of the Phulbani administration. His neighbour, the Oriya "Bisovi" of Koinjore, on the other hand was in favour of amalgamation. Representatives from the Balliguda Taluk also came to Udayagiri. The patros of Mahasingi and Budaguda preferred to stay as they were, but said that if no changes were made in the administration they did not mind what Government they were under. The old Patro of Simonbadi, Iswara Patro, who though an Oriya prefers to speak Khond, was definitely against amalgamation. The Patro of Balliguda, who had attended the public meeting at Russellkonda, was in favour of it.

In fine the great majority of the inhabitants of the Ganjam Agency are not Oriya either in language or in customs. The Savaras are Kolarians and the Khonds are Dravidians. Only an infinitesimal few have any idea of what amalgamation means and of these few many are indifferent. Nevertheless their gradually developing intellectual and trade relations are with the plains of Ganjam. If, therefore, the plains of Ganjam are to be amalgamated with Orissa the Agency tracts must go with them, and the transfer is not likely to be a matter of any real concern to the inhabitants provided they are allowed to retain their existing peculiar customs and form of administration.

10. *Reasons given for the desire for amalgamation with Orissa.*— It is not possible, neither is it necessary, to deal separately with the numerous addresses, statements of deputations and representations of individuals which have been received. It will, however, be useful to summarize the more cogent arguments and opinions put forward in them as reasons for the desire of the Oriyas for amalgamation with Orissa.

(1) Administrative difficulties.

(*a*) There is a deficiency of Oriya officers in superior grades of Magisterial and other services. It has been pointed out that there is at present only one Oriya Deputy Collector in the province, and there are no Oriyas in the superior grades of the Police and Forest Services, Telugu Officers posted as Magistrates, Tahsildars, etc., in Oriya-speaking tracts very frequently do not know Oriya and the quality of their work thereby suffers and Oriyas are put to much inconvenience, even where the Court language has been officially declared to be Oriya.

(*b*) In spite of orders to increase the number of Oriya ministerial officers there is still a vast preponderance of Telugu clerks in all Government offices in the Ganjam District.

(*c*) Notices and summonses, even when printed in Oriya, are frequently filled up in the Telugu language, which is not understood by the people. Many instances of this were shown to us.

(*d*) Postmasters and postal peons are mostly Telugu and frequently cannot read Oriya: they have to get the Oriya addresses of letters translated into Telugu before they can deal with them.

(*e*) Canal officials are mostly non-Oriya and their want of knowledge of Oriya puts the raiyats to great difficulty in obtaining water.

(*f*) The distance of the High Court at Madras is a great handicap to the litigant public and the absence of Oriya-knowing lawyers at Madras necessitates appellants taking with them at great cost pleaders or other interpreters from Ganjam. These difficulties will disappear after amalgamation with Orissa when the Oriya-speaking tracts will come under the jurisdiction of the Circuit Court at Cuttack.

(2) Difficulties of local bodies.

(*a*) The representation of Oriyas is inadequate in areas where the population is mixed. The Municipality of Berhampore and the Union Board of Ichchapuram were instanced as having been so divided into mixed wards that it is difficult to elect Oriya representatives. It is asserted that by a redistribution of ward boundaries the towns could be easily divided into Oriya and Telugu areas, and Oriyas would then have a fair chance of electing their own Commissioners.

(*b*) Local Boards which are predominantly or entirely Oriya do not get sympathetic consideration of their requirements from Telugu Ministers who are inclined to favour demands from Telugu bodies.

(*c*) Notices, receipts, etc., issued by local bodies whose Chairmen and Officers are Telugu are printed in that language and are unintelligible to the Oriya. Some forms used by Taluk Boards in purely Oriya areas are in Telugu and English. They are issued from Madras, and the Boards have not been given power to have their own forms printed in Oriya.

(*d*) Debates in mixed Boards are conducted in English and have then to be explained in Oriya and in Telugu to Members who do not know English. This causes much waste of time and misunderstanding.

(*e*) Owing to racial jealousy between Telugu and Oriya members of mixed bodies much time is spent in useless argument. The Telugus do not want the Oriyas particularly to benefit by any measure and the Oriyas do not want the Telugus to benefit and in the result little is done and the public service suffers.

(3) Co-operative Credit Societies.

These are handicapped in Oriya areas by the fact that the Central Banks are entirely Telugu and the Superior control of the Societies is also Telugu. The forms issued are also in that language: the president of the Aska Co-operative Union complained that he had not even got Telugu forms: those issued to him were in Tamil.

(4) Oriya Christian Community of Berhampore.

A deputation of this community interviewed us at Berhampore and personally represented their disadvantages which are also stated in Enclosure B-III (2).* The headquarters of this community is at Cuttack, their leaders are residents of Orissa; and the bulk of the Oriya Christians, some 15,000 are in Orissa, as against about 1,000 in Ganjam. The Mission High School is located in Cuttack. The Ganjam Christians emphasize their social, educational and religious difficulties caused by the administrative separation of the district from Orissa.

(5) Difficulties in respect of Education.

These have been emphasized at great length by all classes; the assertion is that owing to these difficulties the Oriyas as a people lag far behind their Telugu neighbours in education and are unable, partly on that account, to benefit by such concessions as the Government of Madras has granted them. A summary of the principal disabilities is contained in the note furnished by the deputation of teachers and students of the Khallikote College at Berhampore [Enclosure B-III (4)].*

(*a*) Teachers in the higher class schools are mainly Telugu. For example in the Khallikote College at Berhampore there is only one Oriya teacher and the Managing Com-

* Not printed.

mittee is mainly Telugu. These teachers do not know Oriya and cannot use that language in explaining subjects to the students.

(*b*) There are no text books in Oriya for non-language subjects. Primers used in elementary schools are adopted from Bihar and Orissa but are used in higher forms than those for which they are intended owing to the slower progress of the Madras Oriya children, which is itself a result of deficient training of teachers. Maps are inadequate and incorrect. The map of Ganjam District supplied to Oriya Board Schools and shown to us has the place names rendered into fantastic Oriya. Ganjam Zila is transliterated Gangesari Gila; Ghumsur becomes Ghuseri; and most other names are equally wrong.

(*c*) It is difficult for Oriya students to go to Madras for higher education. The distance is great; living there is expensive; there is no Oriya society and Oriya students must live with Tamils and Telugus whose language, customs, and even food are different from theirs, no seats are reserved for Oriyas in the Madras Colleges and they have frequently difficulty in getting admission; as a result very few Oriyas enter the Madras University and Colleges.

(*d*) They also have difficulty in getting admission to the Ravenshaw College at Cuttack. The curriculum there differs from that of the Madras University. Sanskrit is compulsory for matriculation but as it is not taught in Madras schools the student must learn it privately; students entering the Ravenshaw College have to spend an extra year there in making up defects. They do not get admission easily; they are not permitted to hold. Bihar and Orissa scholarships: degrees from Cuttack institutions are not considered equal to those obtained in similar Colleges in Madras, and it is not easy for them to get employment in competition with Madras passed men. In spite of these disadvantages Oriya students prefer to go to Cuttack when they can secure admission to the Colleges there.

(6) Medical difficulties.

In the Ganjam district there are only two Oriya doctors holding public appointments. One is the District Health Officer who was the first Oriya to obtain the degree of M.B., C.M., from Madras, the other is the Sub-Assistant Surgeon of Aska. District and Taluk Boards have not power to choose their own medical men, but must take officers from the provincial staff who are posted as required by Government. These are nearly all Telugu; few if any know Oriya and they have in consequence much difficulty in understanding the complaints of Oriya

patients who in their turn have no confidence in them. Further the doctors dislike being posted to Oriya tracts and their constant desire for transfer gives much trouble to the Boards.

(7) Deterioration of language, customs and manners.

(*a*) It is everywhere asserted that owing to the influence of Telugu and to inadequate education the Oriya language as spoken in Madras is rapidly deteriorating, and in vocabulary, grammer, and pronunciation is inferior to that used in Orissa and not readily understood by the people of Orissa. Madras has in recent decades produced no Oriya literature of importance. We were shown extracts from the Ganjam District Gazette, printed in Oriya in the Collector's office, in which the Oriya used was almost unintelligible. It is the universal hope that this degradation of language will be checked by amalgamation of the Oriya tracts of Madras with Orissa.

(*b*) The customs and manners of the Oriyas differ fundamentally from those of the Telugu and they are unable to mix socially. Their food differs. Their religious festivals have nothing in common and the Oriya holidays are very inadequately recognized in the Madras Calendar. The Brahmin *versus* Non-Brahmin problem which exists in the southern part of the Presidency has no application to the north but the influence of that movement has results unfavourable to the Oriyas.

(8) It is generally admitted that the Government of Madras and the district officers of Ganjam have in the past 15 years or so done their best to make conditions easier for the Oriyas by granting them concessions such as the introduction of Oriya as the sole or an alternative Court language in predominantly Oriya Taluks, the direction that a greater proportion of Oriyas be employed in Government offices in such Taluks, the nomination of more Oriya members to local bodies, the reduction of fees to Oriya schoolboys. But it is also asserted, and with considerable reason, that these concessions are practically dead letters owing to the continued influence of Telugu officers and employees. It is feared that under the Reformed Government further concessions will be unobtainable and those now in force will cease to exist. As Sriman Hari Hara Panda of Aska put it " Hitherto the Oriyas had their difficulties smoothed down by sympathetic officials but now as a result of diarchy probably no remedy is available and the approach to Government is blocked. Oriyas as a separate race will disappear in Madras in course of time, and the more the Indianization of administration the more will be the sufferings of the minority. The so-called Reform Scheme has killed our aspirations and damped our hopes. We urged at the time the Reforms were under consideration that the union of the Oriyas was an essential preliminary, otherwise we anticipated the present troubles."

11. *Opposition* (*Enclosure F*).*—The terms of our reference are so strictly limited that we might justifiably have refused to consider any reasoned representations from individuals or associations who do not represent the Oriya-speaking people of Ganjam and Vizagapatam. We have ourselves consistently avoided the expression of any opinion regarding the feasibility or desirability of "amalgamation." While therefore we did enquire into the opinion of Telugu inhabitants in areas where the population was mixed, we are not concerned to enter into a detailed examination of the arguments put forward by such bodies as the Ganjam Defence League against amalgamation however cogent they may be. These arguments will be for others to consider and decide on. For the purposes of the present enquiry it is enough for us to enumerate the more important areas, societies and individuals who have expressed an adverse opinion, and to refer briefly to such of their statements and arguments as suggest that there is no genuine desire for amalgamation:—

I. At Tekkali the educated Telugus have expressed their dislike of the proposal.

II. At Varanasi in Parlakimedi Taluk we had a counter-demonstration and there we heard from the ordinary people some confirmation of the opinion expressed by the Ganjam Defence League that the Oriya claim to Ganjam as being from of old an Oriya and not a Telugu country is historically incorrect. Elsewhere in Parlakimedi some Telugus expressed dislike of the idea of amalgamation.

III. In Aska the Malukdars, who are Telugu landlords of some 50 villages, appeared in deputation to assert their opinion. They were supported by a certain number of Telugu Komiti and Muhammadan traders. They presented us with some Oriya signatures to a counter-petition, but the value of these signatures is not beyond dispute.

IV. One or two Muhammadans of Russellkonda also objected to interference with existing conditions.

V. At Berhampore an influential deputation of pleaders and merchants stated their objections at length. They also gave figures to show that the population of Ganjam as a whole is in fact about 50 per cent. Telugu, and they asserted roundly that the present agitation is engineered by interested parties who have not secured the considered support of the masses. That the ordinary raiyat is in the main content and unconcerned is probably true, as we have already pointed out, but we have also given our grounds for the opinion that there is a considerable feeling of discomfort and a growing desire for something new even among the uneducated. Whether there will

* Not printed.

be an equal or a stronger agitation among Telugus if amalgamation with Orissa is effected it is no business of ours to consider.

VI. A few educated Oriyas have opposed the movement, but none of them have much influence.

VII. In Chatrapur we heard one or two individual counter-opinions.

The conclusion is that there is a strong feeling among educated Telugus against amalgamation with Orissa. A certain number of Telugu landlords anticipate difficulty with their tenants if amalgamation eventuates. Telegus insist that the Oriya masses are indifferent, and are in fact content as they are.

12. *Summary.*—Our enquiry has shown that there is a genuine longstanding and deepseated desire on the part of the educated Oriya classes of the Oriya-speaking tracts of Madras for amalgamation of these tracts with Orissa under one administration. By many we have been informed that it is immaterial whether that administration be Bihar and Orissa, Bengal, or Madras; on the other hand there is a distinct tendency on the part of some to regard amalgamation as a preliminary to the formation of a separate Orissa; the opinions of some of the Zemindars on this matter have been referred to in paragraph 5 above.

It seems doubtful whether the masses have had knowledge of the question for any length of time and it is probable that the enthusiasm which manifested itself in many of the villages we passed through was the result of propaganda started just before our arrival by the Vizagapatam and Ganjam Amalgamation Committee which through local branches and volunteers organized demonstrations and collected signatures throughout the country to petitions for amalgamation. But however that may be it is unquestionable that wherever the Oriya raiyats have learned something of the matter they are entirely in favour of amalgamation. The fact that some 106,818 signatures have been forwarded to us from practically every Oriya village in Ganjam and a large number in the Vizagapatam district is significant as showing how far the movement for amalgamation has spread. We received also 2,873 signatures of Oriyas of Ganjam and Vizagapatam, now living Calcutta, Rangoon, Kharagpur, Madras and elsewhere, who desire the union of their home-land with Orissa. It must further be noted that the fact of our making this enquiry has given rise to the belief in the minds of the more ignorant that amalgamation is about to be granted, and we were sometimes asked when it would become a reality. Our enquiry was welcomed by every class of Oriya throughout the area visited and from the Zemindars' Association, from the public in addresses presented, and from deputations we received expressions of thanks to the Government of India for having appointed a Committee to ascertain their desire.

13. In conclusion we desire to place on record our appreciation of the assistance we received in making our enquiry from the Maha-

raja of Jeypore and from the Zemindars of the Ganjam district to whose courtesy and hospitality we owe much; from the various local Societies and from the Amalgamation Committee of Berhampore whose Vice-President Sreeman M. S. Panigrahi did all in his power to facilitate our tours. Our thanks are also due to the District Collector of Ganjam, Mr. Galletti, to the Divisional Officer of Berhampore, Mr. Crombie and to the Government Officers of the various Taluks visited, for the interest they took in our work and the ready help they gave us.

C. L. PHILIP.

A. C. DUFF.

The 26th December 1924.

APPENDIX VI.

Statement prepared by the Government of Madras on the revenue and expenditure of the Ganjam district.

Head of account.	Average receipts for the last three years for the whole district.	Average receipts for the last three years for Chicacole taluk.	Average for the last three years.				Average disbursements for the last three years.	
			Total for Tekkali, Sompeta, Parlakimedi talukas.	Details of column 4.				
				Tekkali.	Sompeta.	Parlakimedi.		
1	2	3	4		5		6	
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	PROVINCIAL.	Rs.
A.—CENTRAL.								
II.—Income tax .	6,41,366	18,023	44,395	10,031	8,921	25,443	5. Land Revenue.	1,24,160
IV.—Opium (Average for two years only is noted, receipts for 1925-26 having been included in provincial revenues).	1,29,381	6,052	16,983	4,538	4,878	7,567	6. Excise .	49,894
							7. Stamps .	12,458
							9. Registration.	58,436
XXVI.—Miscellaneous.	55	...	...	...	...	...	15. Miscellaneous	72,091
XXVII.—Currency .	74	...	...	...	...	...	Irrigation expenditure.	
XXXIII.—Superannuation.	2,942	122	55	...	55	...	19. Interest on ordinary debt.	...
Total .	7,73,818	24,197	61,433	14,569	13,854	33,010	22. General Administration.	8,40,359
B.—PROVINCIAL.							23. Audit .	315
V.—Land Revenue.	23,72,076	4,18,788	2,08,290	77,376	35,525	95,389	24. Administration of Justice.	1,99,803
VI.—Excise .	11,59,271	1,69,721	3,47,649	1,35,573	1,38,223	73,848	25. Jails and Convict Settlements.	49,905
VII.—Stamps .	5,55,928	1,04,612	31,590	4,790	17,796	9,004		

Statement prepared by the Government of Madras on the revenue and expenditure of the Ganjam district—contd.

Head of account.	Average receipts for the last three years for the whole district.	Average receipts for the last three years for Chicacole taluk.	Average for the last three years. Total for Tekkali, Sompeta, Parlakimedi taluks.	Details of column 4. Tekkali.	Sompeta.	Parlakimedi.	Average disbursements for the last three years.	
1	2	3	4		5		6	
B.—PROVINCIAL —*contd.*	Rs.	Rs.		Rs.	Rs.	Rs.	PROVINCIAL	Rs.
IX.—Registration.	86,629	11,515	6,838	1,808	1,480	3,550	26. Police .	6,47,898
XIV.—Irrigation	1,747	1,390	...	...	...	...		
XVI.—Interest .	25,589	2,817	328	179	23	126	31. Education,	720,230
XVII.—Administration of Justice.	33,364	3,948	2,320	463	632	1,225	32. Medical	1,00,715
XVIII.—Jails and Convict settlements.	5,566	161	33	1	...	32	33. Public Health.	35,540
XIX.—Police .	12,250	896	602	158	127	317	34. Agriculture	37,042
XXI.—Education	3,026	107	16	1	1	14	35 Industry	5,502
XXII.—Medical .	5,149	106	146	4	22	120	37. Miscellaneous departments.	5,226
XXIII.—Public Health.	3,087	37	50	16	2	32	41. Civil Works.	2,74,957
XXIV.—Agriculture	2,777	348	9	9	...	...	43. Famine relief.	7,911
XXV.—Industries .	7,284	270	609	271	310	28	44. Territorial and political pensions.	235
XXVI.—Miscellaneous Departments.	8,415	1,312	554	126	108	320	45. Superannuation allowances and pension.	1,24,863
XXX.—Civil Works	12,631	1,204	139	8	17	114	46 Stationery and Printing.	9,252
XXXIII.—Superannuation.	5,100	17	185	23	...	162	47. Miscellaneous.	3,116
XXXIV.—Stationery and Printing.	5,829	382	72	15	21	36	52. Extraordinary charges.	5,979
XXXV.—Miscellaneous.	9,890	—295 (Minus)	184	—27	—120	331		
Cash remittaces representing receipts on account of Salt, Forest and P.W.D.	1,01,52,178	2,47,626	2,26,761	1,07,148	1,122	1,18,491		
	1,44,67,786	9,64,962	8,26,375	3,27,942	1,95,294	3,03,139		
Imperial Bank remittance 70,04,634 Salt . 29,45,089 Forest 1,91,306 P.W.D. 11,149							Cash remittances. Expenditure under Local Boards as per Administration Reports.	33,10,962 11,86,904
C.—RECEIPTS UNDER LOCAL BOARDS.	21,03,735	2,61,231	40,738	12,492	9,330	18,916		
GRAND TOTAL .	1,73,45,339	12,50,390	9,28,546	23,55,003	2,18,478	3,55,065	GRAND TOTAL	78,83,753

APPENDIX VII.

NOTE PREPARED BY AN OFFICER OF THE GOVERNMENT OF BIHAR AND ORISSA ON THE REVENUE AND EXPENDITURE OF CERTAIN PORTIONS OF THE GANJAM DISTRICT.

[*Except where otherwise stated the figures are in thousands of rupees.*]

A statement of revenue and expenditure in Ganjam was supplied to the Government of Bihar and Orissa with letter No. 2589-A-2, dated the 18th October 1926, from the Chief Secretary to the Government of Madras. It was originally prepared at Chatrapur by the Treasury Department at the request of the Government of India and supplied subsequently to the Bihar Government when one was asked for. Government of India do not seem to have specifically asked for figures relating to provincial revenues and expenditure and there was some misunderstanding as to what was required. Many points arising from the statement actually supplied required elucidation and I was deputed to examine the figures in consultation with the officers at Ganjam and Madras. I arrived at Chatrapur on the 18th March 1927 and collected facts and figures mainly from the Treasury accounts there and also from some of the local offices at Chatrapur and saw the District Forest Officer and Superintendent of Police in this connection. The Collector was out on tour and in his absence the Treasury Deputy Collector and his staff helped me with facts and figures. Some information had also to be gathered from the District Board's office. The Collector sent me some figures showing the heavy liabilities that Bihar would be undertaking in the agency tracts where revenue is practically nil.

2. The facts and figures collected at Chatrapur up to the 24th March 1927 were brought by me to Madras for verification and further elucidation. Here on arrival I saw the Chief Secretary, the Accountant-General, the Secretary and the Assistant Secretary to the Board of Revenue, the Secretary to the Collector of Salt Revenue, the Financial Secretary and his two Assistant Secretaries and also the Commissioner of Income-tax. The Accountant-General's office has verified as far as possible the facts and figures already collected and collected other figures and information where necessary.

3. The following notes discuss the facts and figures relating to each head of account. The figures relating to Central heads of accounts originally supplied were not necessary as they do not affect provincial revenues and expenditure. The income-tax figure shows the collections of the tax and is not what is required for present purposes as the local Government's share depends under the Devolution Rules, on the difference between the standard assessed income of 1920-21 and the assessed income of later years. The figure under IV—Opium relates to cost price of opium which goes to the Central Government. The figure under XXXIII relates to subscriptions to

the Indian Civil Service Family Pension Fund which does not affect provincial revenues. The two other petty items under Currency and Miscellaneous may also be neglected.

4. We are then concerned with the heads shown under "Provincial." The figures there are based on treasury actuals for 3 years ending 1925-26 under each head. Statements have been prepared showing actuals under each head for the 3 years separately (*vide* Appendices I and II). Attempt has been made to arrive at a figure under each head which may be considered as normal having regard to progress of actuals and with reference to the facts gleaned in the course of the enquiry. The standard figure thus arrived at and shown in column 7 of Appendices I and II represents revenue or expenditure, as the case may be, under each head for the Ganjam district as a whole. To make an accurate estimate of expenditure of the excluded areas of Chicacole, Sompeta, Tekkali and Parlakimedi is difficult. It has not been possible to work out the cost of establishment in these areas on the basis of the sanctioned scales. In the circumstances the sub-treasury actuals have been assumed to represent receipts and expenditure of each excluded Taluk subject to such corrections as have been found necessary in respect of Forest and Public Works receipts and expenditure which are recorded in the treasury accounts under "Cash Remittances". From the totals of standard receipts and expenditure of the district the treasury actuals for the excluded areas have been deducted and a rough idea obtained of the probable receipts and expenditure of the taluks likely to the transferred.

5. It may be noted at once that the figures under "Cash Remittance" both on the receipt and expenditure side of the statement received from Madras are misleading. These include Imperial Bank and Salt Remittances which do not affect Provincial revenues and expenditure. The only portion of the figures shown under "Cash Remittances" with which provincial revenues are concerned, is relating to Forest and Public Works which appears at first there in the treasury accounts and is ultimately transferred to the proper revenue or expenditure head at head-quarters. On the advice of the Accountant-General, Madras, I have omitted them altogether from consideration for present purposes.

II—Taxes on Income.

6. The statement originally supplied does not give the Provincial share of the tax allotted to Ganjam.

From the office of the Commissioner of Income-tax the following figures were collected:—

	Lakhs.
1. Assessed income for 1920-21 in Ganjam (approximate) .	37
2. Assessed income for 1924-25 in Ganjam (approximate) .	34½
3. Assessed income for 1925-26 in Ganjam (approximate) .	43

The assignment at three pies on the excess over 37 lakhs under Devolution Rule should be 9 in 1925-26. There could not have been

any assignment for Ganjam in the preceding year as the assessed income for that year was less than 37 lakhs. Roughly 9 may for present purposes be taken as the standard for the district as a whole.

V—Land Revenue.

7. (1) It will be seen from the extract from the calendar of Land Revenue Settlement corrected up to 30th June 1925 that the Settlement now current will not be due for revision in any taluk before 1939 and in many taluks not till 1943. " Demand prior to introduction of Settlement " is shown in the extract from the Board's report on Survey and Settlement and Land Records operations for 1924-25 as 6,66 whereas demad of Fasli 1333 (*i.e.*, 1923-24) was 11,36. The recent decision of Government based on a resolution passed by the Legislative Council to limit the maximum enhancement of assessments at resettlement to $18\frac{3}{4}$ per cent. is likely to retard the growth of revenue under this head.

(2) The following information was collected from the Assistant Secretary to the Board of Revenue about the land revenue system.

" The jama proper of raiyatwari lands is the sum total of assessment of all occupied lands, *i.e.*, lands included in the holding of raiyats. This is practically fixed for the years for which the settlement is current.

" Wet land has a single crop on which a consolidated land revenue and water rates are collected. This is called consolidated wet assessment. The occupiers of these wet lands are entitled to take water from the Government source of irrigation under which they are registered.

" Dry lands are not entitled to water from any Government source. But when water is available the holders of such lands apply beforehand for water and can irrigate the lands with permission of the authorities. When thus permitted the raiyats pay single water rates in addition to and apart from the dry land assessment. This is not a consolidated rate. If water is used without permission penal water rates are levied. The holder of dry land systematically irrigated can apply to the collector to transfer his dry land into wet land, *i.e.*, he can have a consolidated land revenue and water rates and by paying the higher consolidated rate he becomes entitled to water without any further permission ".

(3) Besides the elements of variation given in clause (2) above, Sevai Jama which arises from cultivation of unoccupied Government lands and is included under the head " Miscellaneous Land Revenue receipts " is variable. Another item that is variable is water rates both on wet lands for single crop and dry land irrigated. It depends on the seasons.

(4) In an adverse season when for reason beyond his control the raiyat does not get water and is unable to raise any crop on his wet land Government grant him remission of assessment. In ordinary years the remission amounts to 10 in Ganjam but in the year 1919

when there was the last severe famine in the district remission amounted to 1,32, *i.e.*, the *net extra* remission came up to 1,22.

(5) As stated in paragraphs 72 and 73 of the budget memorandum for 1927-28 the portion of land revenue due to irrigation is shown in full under V—Land Revenue. But " direct receipts " collected by the Irrigation Department which comprise rent of buildings, navigation fees and receipts accruing from the sale of water for purposes other than irrigation, such as water supplied to towns and mills and from the sale of the produce of canal banks and plantations, are shown under XIII Irrigation net, *i.e.*, subject to deduction of working expenses.

(6) Cess levied in zemindari and inam lands and raiyatwari cess appear to be collected with land revenue.

(7) It seems clear from what is stated in clauses (1) to (3) above that there is hardly any possibility of expansion under this head till the year 1940 while there is the risk of large remission of revenue in the event of famine, to which the district as a whole is said in paragraph 15 of the Statistical Atlas to be liable, the more serious of them occurring in 1865-66, 1888-89, 1896-97, 1908-09 and 1919.

(*a*) Looking into the average figure supplied, it appears that the average for three years was incorrectly taken at 23,72. There was a mistake in taking the collection for April 1923 to June 1923 at 19,87 whereas it should have been between $3\frac{1}{2}$ lakhs to $3\frac{3}{4}$ lakhs having regard to total collections of any year. The calculations are given below:—

1	2	3
——	Original.	Revised calculations.
April 1923 to June 1923 . . .	19,87	3,67
July 1923 to June 1924 (Fasli 1333) .	22,70	22,70
July 1924 to June 1925 (Fasli 1334) .	25,05	25,05
July 1925 to March 1926 . . .	21,49	21,49
	89,11	72,91
Deduct—Cess levied in zemindari and inam lands for three years ending March 1926	—12,94	—12,94
Deduct—Raiyatwari cesses for three years ending March 1926 . .	—5,00	—5,00
	71,17	54,97
Average for three years ending March 1926	23,72	18,32

(*b*) Let us now see how the average 18,32 compares with the collections for the fasli year 1333 and 1334 as shown in demand, collections and balance statements at Chatrapur:—

1	2	3
	Fasli 1333.	Fasli 1334.
Peshkush	4,27	4,46
Shrotrium jodi	49	49
Raiyatwari and Miscellaneous	11,46 (13,12—⅓ of 500 cess for 3 years, *i.e.*, 13,12—1,66 =11,46)	12,70 (14,36—⅓ of 500 cess, *i.e.*, 14,36—1,66=12,70)
Other items	11	10
Proprietary estate village service fund	69	68
TOTAL	17,02	18,43

The above seems to support the average of 18,32 worked out in sub-clause (*a*) above.

(*c*) The following details, collected from the district budget estimate of Land Revenue for 1927-28 as submitted by the Collector of Ganjam to the Board of Revenue, also seem to support the figure 18,32:—

1	2	3	4	5
	Budget, 1927-28.	Revised, 1926-27.	Sanctioned, 1926-27.	Actuals, 1925-26.
Ordinary Revenue—				
Permanently settled revenue (Peshkush)	4,08	4,16	4,30	4,45
Shrotrium jodi	48	49	50	50
Raiyatwari and miscellaneous	12,51	12,70	13,11	13,30
Proprietary estate village service	70	67	69	67
Land cess collected on behalf of local boards	4,86	5,27	5,20	4,13
Deduct—Advances to local boards	—4,89	—5,20	—5,20	—7,46
Total Revenue (ordinary)	17,74	18,09	18,60	15,59
Sale proceeds of waste lands and redemption of land tax	13	13	13	13
Miscellaneous	19	19	19	19
TOTAL	18,06	18,41	18,92	15,91

(*d*) The Accountant-General's office has independently worked out the average at 18,13 which is very near 18,32 worked out in sub-clause (*a*) above. I would therefore take 18,32 as the standard figure under V—Land Revenue for the whole district including Chicacole and other excluded areas.

VI—Excise.

8. The figures are given below:—

1	2	3	4
——	1923-24.	1924-25.	1925-26.
Treasury figures . .	12,17	11,51	12,73
Figures from the Administration Reports (Collections) . .	12,25	11,52	11,01
Demand . . .	.....	11,61	11,13

The Treasury figure (12,73) for 1925-26 appears to include 1,57 for cost price of opium, which goes to the Central Government. Neglecting this, the collections for 1925-26 come to 11,16 and are very near the demand for that year (11,13) and the corrected treasury figure compiled for the Administration Report. The Excise revenue in Ganjam seems to be going down by about half a lakh a year, and it would not perhaps be safe to take the standard at more than 11,25.

Under the new method of accounting, the cost price of opium, which goes to " Central ", has to appear both on the receipt and the expenditure side. It seems simplest to ignore this on both sides of the account, and this has been done in suggesting 11,25 as the standard.

6—Excise.

9. (1) There are four gazetted officers of the Excise Department in Ganjam, *viz.*, one Inspector of Excise in Berhampore, another at Chicacole, one at Gumsur Udaigiri, and another at the Aska distillery. The staff seems to be partly under the Collector and partly under the Excise Department.

(2) There was a combined Salt and Excise Staff up to 1923-24, and the cost was shared on the proportion of $\frac{2}{3}$ to Excise and $\frac{1}{3}$ to Salt. The adjustment was made at headquarters. Therefore there are no actuals in the Treasury for 1923-24. The average worked out by the Treasury (50) does not represent the actual position. Treasury actuals in 1926-27 are as follows:—

	Rs.
April 1926	6,287
May 1926	7,858
June 1926	6,681
July 1926	6,478
August 1926	7,119
September 1926	6,500
October 1926	7,050
November 1926	6,139
December 1926	6,597
January 1927	6,856
February 1927	6,881
March 1927 (Estimate)	8,000
	82,446 say 82 a year.

The standard may be taken at 82, excluding cost price of opium payable to the Central Government which has not been taken into account in the figure for revenue either.

VII—Stamps.

10. The actuals are:—

1	2	3	4
——	1923-24.	1924-25.	1925-26.
Collector's figures . .	5,18	5,86	5,64
Accountant-General's figures	5,18	4,86	5,64

It will be seen that the Accountant-General's figure for 1924-25 differs by just a lakh from that of the Collector. Whichever figure is correct, there is perhaps no reason to expect less than 5,50 in the future. This does not apparently include anything on account of unified stamps, for which the presidency as a whole gets an assignment of 8,34 from the Central Government. There are 24 districts in the Presidency and $\frac{1}{24}$ th of 8,34 gives roughly 35 per district. Taking the collections and the assignment together we get 5,50 + 35 = 5,85 which has been proposed for the standard.

7—Stamps.

11. The average worked out (12) represents practically only the charges for sale of stamps. Cost of stamps and plain paper supplied from Central Stores, etc., amounted to 25 for the Presidency as a whole in 1925-26. It has been taken at 84 in the Revised of 1926-27. Roughly $\frac{1}{24}$th of this would be 3 for Ganjam. The standard may then be taken at 12 + 3 = 15.

VIII and 8—Forests.

12. (1) The following information was collected at Chatrapur.

(*a*) The Superior officers of the Department in Ganjam are—

1 District Officer (Indian Forest Service) at Chatrapur.

1 Assistant Conservator (Indian Forest Service) at Russellkonda.

1 Extra Assistant Conservator (Provincial Forest Service) at Berhampore.

1 Special Forest Officer of the Provincial Service at Parlakimedi. (He is independent of the District Forest Officer of Ganjam and he may be placed in charge of the Berhampore range in addition to Parlakimedi Malias from 1st April 1927.)

(*b*) Most of the reserved forest is in the north, in the Gumsur and Aska taluks. There are scattered forests in the south in the Parlakimedi taluk and Ramagiri—Udaigiri taluk and scrub jungle in the Berhampore taluk. Proposals are under consideration for

reserving forests in the Balliguda Agency. No estimate has been framed yet.

(2) (*a*) The figures collected at Chatrapur related only to the District Forest Officer's charge. Though most of the revenue arises and expenditure is incurred in his charge, his figures are not exhaustive. The Accountant-General's figures for the district as a whole are as follows:—

1	2	3	4
——	1924-25.	1925-26.	1926-27 up to Feb. 1927.
Revenue . . .	2,08	1,48	1,58
Expenditure . . .	1,75	1,56	1,72

The high revenue figure for 1924-25 is abnormal inasmuch as the Forest Department got credit in that year for the sale in the previous year of timber to the commercial undertaking (saw mill) at Russellkonda. Figures of the year 1926-27, though incomplete, seem to suggest, and the fact that new forest areas in the Balliguda Agency may be reserved also points to the possible growth of forest revenue in the future. Forest revenue in the month of March in the two years ending 1925-26, was about 20. Adding this to 1,58, realized up to February 1927, we get 1,78.

Taking into consideration the interest charges on capital outlay, the Russellkonda saw mill has been working at a loss during the last three years. The contract with Messrs. Parry and Company, for the working of the mill will expire on 31st March 1927, and it remains yet to be decided whether the contract will be renewed. Nothing need in the circumstances be allowed for profit of the saw mill which, if any, would be credited to revenue. There are some indirect charges which are recovered from the commercial undertakings and credited to forest revenue. The amount for the Russellkonda saw mill must be negligible, having regard to the fact that the recoveries for the Presidency as a whole were 3 only in 1925-26.

It will perhaps suffice to take the revenue at 1,78 for present purposes.

(*b*) It has not been possible to get separate figures of expenditure under 8 and 8A—Forests. Expenditure up to February 1927 was 1,72. Expenditure in March of the past two years was 20 and 27. The expenditure of the current year may come up to 1,72 + 27 = 1,99, say 2,00.

Apart from this some allowance should be made for the loss on the working of the Russellkonda saw mill. The position of this commercial undertaking appears to have been as follows:—

1923-24.—Loss of Rs. 36,082 after taking into account interest charge of Rs. 23,467, which according to paragraph 47 of Budget Memorandum for 1927-28, is debitable to the internal account of the concern.

1924-25.—Profit Rs. 1,894. But if interest on capital which works out approximately to Rs. 22,291 is taken into account, a loss of Rs. 20,397.

1925-26.—Loss of Rs. 894. But if interest of Rs. 27,128 is taken into account, the loss would amount to Rs. 28,022.

The average loss of the last 3 years comes to 28. The standard of expenditure on Forest may accordingly be taken at 2,00+28= 2,28, say 2,30.

IX and 9—Registration.

13. The figures do not seem to call for remarks. The average figures may be adopted, *viz.*,

Revenue 87.

Expenditure 58.

XIII—Irrigation and 14—Interest on Irrigation.

14. (1) There are three irrigation systems in Ganjam of which the most important (the Rushikulya system) is in the north. It irrigates the Gumsur, Aska, Berhampore and Chatrapur taluks. The second, known as Ganjam minor river system, consists of two rivers—the Langulya and the Vansadhar in the Chicacole taluk. The third is in Government taluks and seems to be of no very great importance. The systems are described in paragraph 14 of the Statistical Atlas of Ganjam, 1923. For all the three capital accounts are kept.

(*a*) Rushikulya System.

As stated under V—Land Revenue, the water rates appear under V—Land Revenue, and the head XIII—Irrigation gets only direct receipts collected by the Public Works Department for various purposes. These direct receipts are negligible, being between 3 to 4 a year, and working expenses were 53, 90 and 67 in the 3 years ending 1925-26. The figures given by the Works Audit branch of the Accountant-General's office are as follows:—

	2	3	4
	1923-94.	1924-25.	1925-26.
Direct receipts	4	3	3
Less—Working expenses . .	53	90*	67
	—49	—87	—64
Interest charges debitable to 14—Interest, on outstanding loans (balance on 31st March 1926 being 47,73)	1,58	1,60	1,60

The above does not apparently include establishment and tools and plant charges of the Department, for which 30 and 2 were debited in the Revenue account of 1925-26. The Accountant-General, Madras, said that there was no whole-time establishment

* (Includes heavy expenditure on repairs on account of cyclone damages).

for Irrigation work in the Ganjam district and these charges may be called *pro rata* charges for the irrigation establishment in the district. As the Executive Engineer and his staff have been allowed for under 41—Civil Works, these *pro rata* charges may be neglected.

(*b*) GANJAM MINOR RIVER SYSTEM IN CHICACOLE TALUK.

The following figures were supplied by the Works Audit Branch of the Accountant-General's office:—

1	2	3	4
	1923-24.	1924-25.	1925-26.
Direct receipts . . .	Rs. 112 say nil.	Rs. 3 say nil.	Rs. 9 say nil.
Less—Working expenses . .	27	1,12*	29
	—27	—1,12	—29
Interest charges on the borrowed funds debitable to 14—Interest (The outstanding balance of loans being 12) . . .	...	...	1

The above does not include establishment and " tools and plant " charges for which 14 and 1 respectively were debited in the Revenue account in 1925-26. For the reasons given above, under (*a*) Rushikulya system, these charges may be neglected as being *pro rata* charges.

(*c*) GANJAM GOPALPUR CANAL SYSTEM.

The direct receipts and working expenses were less than 1 in the past 3 years and may be neglected. Interest charge debitable to " 14—Interest " is nil as no loans appear to be outstanding for capital outlay on this project.

(2) It would seem about 30+82=1,12 was spent in 1924-25 on account of cyclone damage repairs. These are abnormal charges and may be left out of account for present purposes. Apart from interest charges, the average loss on these systems may perhaps be roughly taken at 90, *viz.*, 60 under Rushikulya and 30 under Ganjam minor river systems.

(3) For interest charges debitable to 14—Interest we may adopt 1,60+1=1,61.

XIV—Irrigation.

15. The irrigation revenue arising from minor works under both the Revenue and the Public Works Departments is booked under V—Land Revenue. Other receipts such as contribution from raiyats for particular work or miscellaneous receipts by the Public Works Department are booked under XIV. The amount under XIV realized by the Public Works Department was practically nil during the last 3 years. The only receipts under XIV were realized

*Heavy expenditure due to repairs on account of cyclone.

by the Civil Department for which the average of 2 seems sufficient for a standard figure.

XVI—Interest.

16. The total amount outstanding on account of Class I loans on 1st April 1926 was 3,00 and on account of Class IV loans was 1,09. Besides a loan of 90 was given in 1926-27 to the Ganjam District Board in 1926-27. Roughly 5,00 may be taken as advances on which interest would be received by the local Government. Rate of interest is not the same for all loans. At $6\frac{1}{4}$ per cent. the interest on 5,00 would amount to 31. But Class IV loans would ordinarily bear lower rate of interest in Bihar. The average of 26 may be accepted as the standard.

15—Minor Irrigation Expenditure.

17. This expenditure is apparently incurred both by the Civil and the Public Works Departments.

CIVIL.

From the detailed statement of expenditure on minor works in Ganjam during 1925-26 the following details have been gathered:—

Works expenditure	in Berhampore Taluk . . .	25
,, ,,	in Aska Taluk	6
,, ,,	in Gumsur Taluk	9
,, ,,	in Chatrapur Taluk . . .	11
	TOTAL .	51
,, ,,	in Parlakimedi Taluk . . .	...
,, ,,	in Chicacole Taluk	12
		63
The establishment charges come to about 1 a month, say 12 a year		12
	Say	75 a year.

The actuals examined for 1926-27 up to February 1927 seem to give the same result. They were 61 up to February 1927. The March expenditure on works of the preceding year (1925-26) was heavy (31), while similar expenditure in 1926-27 was more evenly distributed. I would take 14 only for March 1927, and thus get a total of $61+14=75$ in respect of minor works in the Civil Department. The Board's Report on expenditure incurred during 1924-25 on the up-keep of Minor Irrigation Works also supports the figure of 75, allotment being shown as 77 and expenditure as 75, for Ganjam.

PUBLIC WORKS DEPARTMENT.

The following figures relating to Public Works Department Minor Irrigation works were supplied by the Accountant-General's Superintendent of Works Audit:—

1923-24	46
1924-25	41
1925-26	42
	1,29
Average	43

Taking Civil and Public Works Expenditure together we get a total of 75 + 43 = 1,18 for a standard.

5—Land Revenue.

18. The average expenditure of three years ending 1925-26 as worked out in the Collector's office is vitiated by the fact that there has been a change of classification and certain staff (*e.g.*, village establishment formerly charged to "5—Rand Revenue in 1923-24" is now paid for from "22—General Administration." But the two heads taken together should give a reliable result).

2. There are apparently no gazetted officers in Ganjam whose pay is debited to 5—Land Revenue. The 5—Land Revenue Budget for 1927-28 as proposed by the Collector gives the following figures:—

1	2	3	4
	Actuals, 1925-26.	Revised, 1926-27.	Budget, 1927-28.
Taluk Establishment, permanent*	33	35	35
Taluk Establishment, temporary	...	1	1
Allowances	16	16	16
Contingencies	1	2	2
TOTAL	50	54	54

Details given in the Treasury accounts for 1926-27 suggest that monthly expenditure is about—

	Rs.
Establishment	2,700 a month.
Travelling Allowances and other Allowances	1,300 ,,
Contingencies	100 ,,
TOTAL	4,100 say 49 or 50 a year.

	Rs.
*17 Revenue Inspectors on	60—80
31 Revenue Inspectors on	35—60
1 Tahsildar on	200—300
1 Deputy Surveyor	35—80
1 Draftsman	35—60
2 Peons	12—18

and also clerical staff.

In view of the fact that Budget of 1927-28 stands at 54 we may take the same figure for our standard.

22—General Administration.

19. (1) The gazetted officers paid from this head are seven in all. Their charges are included in the average, *viz.*,

	Rs.	
(1) Collector	2,500	*plus* Overseas pay £30, Tentage Rs. 50.
(2) Sub-Collector at Berhampore . .	500	
(3) Sub-Collector at Chicacole . . .	1,000	Tentage Rs. 35.
(4) Treasury Deputy Collector at Chatrapur	500	
(5) Assistant Agent, Balliguda . . .	500	
(6) Revenue Divisional Officer at Gumsur .	380	
(7) Revenue Divisional Officer at Chatrapur	300	

(2) Details collected mainly from the Treasury Account for December 1926 for the Collector's charges are:—

(*a*) Collectors and Magistrates including Establishment and contingencies monthly—Rs. 5,529.

This does not include Rs. 1,400 drawn by the Collector in Madras and £30 as sterling overseas pay in England. Adding Rs. 1,850, we get monthly expenditure at Rs. 7,379 say 89 a year.

(*b*) Treasury Establishment—Monthly cost is about Rs. 2,500. Annual expenditure say 30.

(*c*) Subdivisional Establishment.—There are two Indian Civil Service officers (one at Berhampore and another at Chicacole). There are three other gazetted officers, *viz.*, one at Chatrapur, one at Gumsur (Russellkonda) in charge of Gumsur Division, and one at Russellkonda in charge of Balliguda Division. One of the Indian Civil service officers gets overseas pay in rupees.

Two Indian Civil Service officers and their travelling allowance cost Rs. 2,000 a month, *i.e.*	24	a year.
Three Sub-Assistant and Deputy Collectors' pay cost Rs. 1,200 a month, *i.e.*	15	,,
Establishments' pay cost Rs. 2,400 a month .	29	,,
Travelling allowance and contingencies cost Rs. 3,000 a month	36	,,
	1,04	a year against 1,03 actuals for 1925-26 as given by the Board's Office.

(*d*) Taluk Establishment.—This head includes pay of Tahsildars and Deputy Tahsildars employed in Government taluks. Their pay costs Rs. 11,500 a month and other charges about Rs. 5,500 a month, *i.e.*, 16 a month or 1,92 a year.

(*e*) Village Establishment—

(*i*) Raiyatwari village service.—This head includes Karnams and Assistant Karnams, who are village accountants. Their cost is about Rs. 6,000 a month, *i.e.*, 72 a year against 79 being the actuals for 1925-26 as shown in the Board's office.

Raiyatwari village service also includes "Allowances to district and village officers", *i.e.*, pay of village Munsifs (headmen), their assistants and their servants. This costs about 11 a month, *i.e.*, 1,32 a year, against 1,46 shown as actuals for 1925-26 by the Board's office.

(*ii*) Proprietary village service.—This head includes same classes of officers as in raiyatwari areas. Their establishment seems to cost 20 a month or 2,40 a year against 2,46, being the actuals for 1925 as shown in the Board's office.

(*f*) Process-serving establishment costs as per budget submitted to the Board, 9 a year.

(*g*) Works expenditure.—Actuals of 1925-26 for works expenditure as shown in the budget of 1927-28 submitted to the Board came to half a lakh. But the actuals of 1926-27 up to February 1927 amount to 57.* Adding to this 12 for works expenditure in March 1926, we get 57 + 12 = 69 against 68 taken as the Revised Estimate in the Board's office. Perhaps 75 a year would be a fairly safe figure to take under this head.

*New works	.	10
Repairs	.	47
		57

(3) There is a local audit establishment which costs Rs. 500 to Rs. 700 a month, say . . . 7 a year.

The travelling allowance of the members of the Legislative Council drawn in Ganjam cost Rs. 300 to Rs. 400 a month in 1926-27, say . 4 a year.

11 a year.

(4) Total estimate for the head would then be—

Clause (2)	(*a*)	89 a year.
	(*b*)	30 ,,
	(*c*)	1,04 ,,
	(*d*)	1,92 ,,
		79 ,,
	(*e*) (*i*)	1,46 ,,
	(*e*) (*ii*)	2,46 ,,
	(*f*)	9 ,,
	(*g*)	75 ,,
Clause (3)		11 ,,
		9,81 a year.

(5) Taking the heads 5—Land Revenue and 22—General Administration together the estimate works up to—

Land Revenue	54
General Administration	9,81
	10,35

The average worked out in the Collector's office is only 1,24+8,40=9,64. We may adopt 10,35 taking 9,81 for 22—General Administration.

XVII—Administration of Justice.

20. The actuals are fairly constant and call for no remarks. We may accept the average of 33 as standard.

24—Administration of Justice.

21. Under the head Criminal Courts there are 4 stationary Sub-Magistrates, 8 clerks, and 12 peons and also one bench clerk and one peon at Berhampore. Excluding "Diet and road money" charges, which are treated as non-voted and for which no estimates are prepared in the district office, expenditure was 18 in 1925-26, 1926-27 and also in 1927-28 (Budget).

"Diet and road money" does not seem to exceed Rs. 2,000 a year. So the total cost of Criminal Courts would be 18+2=20 a year.

2. The gazetted staff employed is 1 Judge, 1 Subordinate Judge and 4 Munsifs at Aska, Sompeta and Berhampore.

3. Total charges under "24—Administration of Justice" including Criminal and Civil and Sessions Courts up to February 1927 in 1926-27 amounted to 1,73. March expenditure for the last 3 years was 18. Total estimate would then be 1,73+18=1,91. This is very near the actuals of 1924-25 and 1925-26. The average is, however, 2,00, and we may adopt 2,00 as standard.

XVIII—Jails.

22. The figures supplied by the district office do not call for remarks. The average of 6 may be adopted for the standard.

25—Jails and Convict Settlements.

23. (1) The District Jail at Berhampore and the special jail at Russellkonda are under the Jail Department and all other sub-jails are under the District Magistrate.

(2) The actual expenditure for Berhampore and Russellkonda jails according to the Treasury accounts for 1925-26 and 1926-27 was about 25 + 7 = 32 a year.

(3) Jail manufactures and charges for police custody amounted to 4 + 1 = 5 in 1925-26.

(4) There are sub-jails under the Magistrate's control at the following places:—

Chatrapur, Chicacole, Narasannapeta, Aska, Tekkali, Sompeta, Parlakimedi, Ichapur, Kondala, Surada, Ramagiri, Gumsur, Udaigiri and Balliguda.

Generally one warder is the only establishment in each sub-jail and their cost is Rs. 2,300 a year. Budget provision for 1926-27 for "Contingencies" of the sub-jails under the District Magistrate was Rs. 10,820. Roughly then, establishment and contingent charges of the sub-jails under the District Magistrate would be Rs. 2,300 + 10,820 = say 13 a year.

(5) Total estimate under "25—Jails" may then be taken at 32 + 5 + 13 = 50 a year. This is the same as the average of the last 3 years and may be adopted as the standard.

XIX—Police.

24. The actuals are fairly constant and agree with those given by the Accountant-General's Office. The average of 12 may be accepted as normal.

The question, however, arises whether Bihar will not be expected to take over the Bengal-Nagpur Railway Police in Ganjam and whether they should not appropriate a portion of the contribution made by the railway towards the cost. The amount of contribution received annually by the Madras Government is Rs. 4,652 and half of it say 2 may for present purposes be taken as the share that will go to Bihar. The standard should then be 12 + 2 = 14.

26—Police.

25. (1) There are apparently one Superintendent of Police at Chatrapur, one Assistant Superintendent at Russellkonda, and one Deputy Superintendent at Parlakimedi. The Treasury accounts for 1926-27 under District Executive Force show monthly expenditure to be about 41 and the figures obtained from the office of the

Superintendent of Police go to support the same figure for monthly expenditure. The details are:—

1	2	3
	Treasury Account.	Police office figure.
Pay of officers	2	2
Pay of police force	27	27
Office establishment	1	1
Allowances	8	7·5
Contingencies	3	3
TOTAL	41	40·5
	Say, 4,92 a year.	

(2) There are the Talayaris (village police), about 2,100 in number, drawing salaries below Rs. 10 per mensem. They are under the control of the Revenue Department. Their monthly expenditure is about 14 according to the Treasury account of 1926-27. Annual expenditure on account of village police would then come to 1,68.

(3) Total of these charges then comes to 4,92+1,68=6,60. Probably there are other classes of expenditure which have not been taken into account in the two classes above. The two preceding years' actuals were in all 6,89 and 6,76. We need not take less than 6,75 for purposes of standard.

(4) The Superintendent of Police said that there was likely to be no important new expenditure in the district, either on revision of pay or increase of staff. There is a building programme of 1,50, but the expenditure is to be spread over many years.

(5) Bihar will probably have to take over the Bengal-Nagpur Railway Police within Ganjam. According to the budget of 1927-28, the cost of this police is 39 a year. If half the cost falls on Bihar, the charge will be about 20 a year. The standard should then be 6,75+20=6,95.

(6) I have not taken into account the East Coast special police charges which according to the budget of 1927-28 stand at 1,32 for the whole Presidency. The force is meant to provide protection for the Agencies and the Northern part of the Presidency. There is apparently one armed force in Russellkonda and it is not certain whether Bihar Government will think it necessary to maintain the East Coast police in Ganjam.

XXI—Education.

26. There was apparently some abnormal receipt under this head in 1923-24 when the actuals went up to 7. In subsequent years they have stood at 1 and 1 may be adopted as the standard.

31—Education.

27. (1) The Treasury accounts for 1926-27, show:—

(*a*) The only secondary schools maintained by Government are for girls and cost Rs. 400 to Rs. 500 a month or say 5 a year. There is, however, a private Kalikota Intermediate College and also a private High School teaching up to S. L. C. Examination at Berhampore.

(*b*) Primary schools for boys in the Agency tracts are maintained by Government at a monthly cost of 7 to 8. Say 90 a year.

(*c*) The training schools and classes maintained in the Agency tracts by Government cost Rs. 1,500 a month or 18 a year.

(*d*) The training schools for masters in the plains maintained by Government cost Rs. 5,500 a month or 66 a year.

(*e*) The Inspecting staff costs—

(*i*) In the Agency	1,300	a month.
(*ii*) In the plains, men's branch	5,000	,,
(*iii*) In the plains, women's branch	300	,,
TOTAL	6,600	,,
	Say 78	a year.

(*f*) Scholarships cost Rs. 300 to Rs. 400 a month or say 5 a year. Total estimate of expenditure, excluding grants-in-aid, thus comes to 2,62 a year.

(2) The greater part of the expenditure is incurred in the shape of grants-in-aid which were as follows in 1925-26:—

For secondary education	1,14	
For primary education	4,02	
For special	2	
TOTAL	5,18	a year.

This gives a total of 2,62+5,18=7,80 a year.

(3) But it is doubtful whether the standard should be taken at 7,80. Considering later actuals we find that 11 months' expenditure in 1926-27 under all heads of Education amounted to 7,13. March expenditure in last 3 years was:—

1923-24	1,07
1924-25	1,29
1925-26	1,33

Expenditure in the current year will perhaps amount to 7,13+1,33=8,46.

(4) The Collector's office told me that new schemes of secondary and vocational education in the Agency areas will cost 10 each

recurring. There will be total non-recurring expenditure of another 10. Taking only the recurring portion (20) and 8,46 already arrived at in clause (3), the standard may be taken at 8,66.

(5) It may be necessary to bring Ganjam into line with other Bihar districts by giving it a Government Zilla school. Also Ganjam students may find Patna too far and may want to take advantage of the educational facilities provided in Madras Colleges at least for some time. This may necessitate payment of contribution to the Madras Government.

XXII—Medical.

28. The Accountant-General's actuals slightly differ from those given by the Treasury and are 2 for each of the three years. We may take 2 as the standard.

Presumably sale of quinine in the malaria-stricken parts of the district might raise the receipts here. But as we realize perhaps only the cost price and hardly any profit is made, nothing need be allowed for it, either on the receipt or the expenditure side.

32—Medical.

29. (1) The staff of gazetted officers employed consists of 1 District Medical Officer and 5 Assistants to the District Medical Officer at Berhampore, Chatrapur, Russellkonda, Parlakimedi and Chicacole.

(2) Monthly expenditure is about 8, apart from grants to local bodies, and its distribution is as follows:—

District Medical Establishment	3
Hospitals and dispensaries	3
Government Medical officers lent to local bodies . .	2
TOTAL .	8

Say, 96 a year.

(3) The following grants to local bodies appear to have been sanctioned in 1926-27 up to February 1927:—

June 1926	4
August 1926	1
November 1926	2
December 1926	1
TOTAL .	8

(4) We thus get a total of 96+8=1,04 a year. But new dispensaries in the Agency tracts are now being opened at the rate of two a year. Two have been opened this year and eight remain to be opened. Total recurring cost of these dispensaries would be 30 a year. Ultimate total estimate then comes to 1,04+30=1,34 which may be taken as standard.

XXIII—Public Health.

30. The Accountant-General's actuals differ slightly from the Treasury figures and give an average of 1 which may be taken as standard.

33—Public Health.

31. Agency Public Health establishment is under the control of the District Medical Officer. There is only one gazetted officer in the department called District Health Officer (paid by Government). He is in charge of the plains portion of the district and presumably works independently of the District Medical Officer.

The monthly expenditure according to the Treasury account of 1926-27 is between Rs. 2,500 and Rs. 3,000, of which 1 may be taken for the Agency and 2 for the plains. This gives 36 a year. But in view of the increase in the actuals (42) of 1925-26, 42 may be adopted as standard.

XXIV—Agriculture.

32. The Accountant-General's actuals are slightly different from those given by the Treasury and accepting the Accountant-General's actuals we may take 1 as standard against the average of 3 worked out by the Treasury.

34—Agriculture.

33. There is only one gazetted officer of the department in the district, *viz.*, the Assistant Registrar, Co-operative Societies. There are 2 agricultural demonstrators, who work under the Assistant Director of Agriculture, located outside the district at Vizagapatam. Also there are 7 Veterinary Assistant Surgeons in the district, 3 being attached to hospitals and 4 being touring veterinary assistants. Average of 37 worked out by the Treasury has been verified in the Accountant-General's office and may be accepted for the standard.

XXV and 35—Industries.

34. *Receipts.*—Average figure (7) verified in the Accountant-General's office may be accepted as standard.

Expenditure.—In view of the steady growth of expenditure, the latest actuals of 1925-26 which amounted to 10 may be taken as the standard.

XXVI and 37—Miscellaneous Departments.

35. The average figures under both receipts and expenditure may be taken as standard.

XXX—Civil Works.

36. *Receipts.*—The actuals on which average (13) has been struck represent mainly rent of buildings recovered by Civil officers. Besides these, the Public Works Department realised about 6 in the

last three years giving an average of 2 a year. The standard may then be taken at 13+2=15.

41—Civil Works.

37. *Expenditure.*—The average is based on expenditure incurred by the civil officers only. These fall under two heads (1) establishment and (2) Grants-in-aid to local bodies.

According to the Treasury accounts of 1925-26, the Establishment charges under (1) include:—

	Rs.	
(*a*) Pay of one Executive Engineer, three Subdivisional officers, their staff, allowance and contingencies	6,500	a month.
(*b*) One District Board Engineer, whose pay is met by Government	750	,,
TOTAL .	7,250	
	Say 86	a year.

Under (2), Grants-in-aid to local bodies for roads and bridges amounted to 1,91 in 1925-26, including 30 for flood damage repairs.

For (1) and (2) we get 86+1,91=2,77. But, as the actuals for the three years show that Civil expenditure was between 2,72 and 2,79, we need not leave out of account the 30 for special flood damage repairs. On this basis we then get 2,77 as more or less normal annual civil expenditure under this head.

(2) The actual civil works expenditure incurred by the Public Works Department as given by the Works Audit Department of the Accountant-General's office practically all of which would be shown under "Cash remittances" in the Treasury accounts, was 82 in 1923-24, 77 in 1924-25 and 72 in 1925-26. Roughly we may take 75 as normal expenditure incurred by the Public Works Department under this head. The total of Civil and Public Works Department expenditure normally would then be 2,77+75=3,52.

(3) It is doubtful however whether 3,52 would be a safe figure to take as standard under this head with reference to past expenditure only. We have to look ahead and to allow something for the programme of work to be carried out in the near future.

(*a*) There is a five years' programme of work to be executed in the Agency tracts by the Public Works Department from 1927-28 to 1931-32 at a cost of 7,01 of which 1,78 may be required in 1927-28.

(*b*) Outside this five years' programme, it appears from a note recorded by the Collector for my information that Government have approved his Gumsur Udaigiri model village scheme, according to which Government propose to construct a model village for the official colony there, *viz.*, for Sub-Assistant Surgeons, Head-Master, Police Inspector and Constables, Forest Ranger, Health Inspec-

tor, Supervisor of Schools, Revenue Inspector, etc. This is estimated to cost 64 roughly, but may go up to 1,00.

(*c*) There are also the following projects:—

	Estimate.
(*i*) Taptapain Ghat Work	1,70
(*ii*) Godohoda Bridge	1,80
(*iii*) Khajadipoda Ghat work	2,00
(*iv*) Mohendrogodo Bridge	1,00
(*v*) 300 miles of roads to be metalled at a cost of at least	10,00
TOTAL	16,50

(*d*) The Collector's own office building was greatly damaged by the cyclone of 1923. He now holds his office in his own residence. The Collectorate buildings are in a dilapidated condition with leaky tiled roofs and floors badly worn out in places and walls not very strong and cracked here and there. Land has been acquired near the Chatrapur railway station for new buildings, though the project does not seem to have made any progress. Presumably within a couple of years new buildings will have to be constructed at a cost of some 2 or 3 lakhs.

(*e*) Aska Taluk Office is to be rebuilt at a cost of 67, of which 20 has been put in the budget of 1927-28.

(*f*) The Police Department have a building programme of $1\frac{1}{2}$ lakhs to be spread over 7 to 10 years.

(*g*) There are also the following projects for which Government may have to find funds, according to information gathered at Chatrapur.

(*i*) Bahuda bridge (estimate 2,83) necessitated by cyclone damages. The whole of it will, it is understood, have to be borne by Government.

(*ii*) Mahendra Tanaya Bridge (estimate 1,99). The district board and Government will presumably share the expenditure half and half. A loan of 90 appears to have been sanctioned already.

(*iii*) Mahanadi bridge. Estimate 2,79, of which half may be required from Government.

(*iv*) Guherigedda bridge is estimated at 31 and Rushikulya bridge at 8,40. These are under correspondence with Government. As they are on the Trunk road, it is not improbable that Government will be expected to meet the whole cost.

(*v*) Donoral bridge is estimated at 52, and Government may be asked to meet half the cost.

Roughly it may be taken that there is a possibility of Government having to find about forty-five lakhs extra for various Public

Works Department projects in contemplation. It is difficult to suggest what should be allowed for in the standard figure for this kind of expenditure which will undoubtedly be spread over many years. For present purposes 2½ lakhs may be taken and the standard figure for the head raised from 3,52 to 6,00.

43—Famine.

37-A. Paragraphs 15—17 of the Statistical Atlas, 1923, of Ganjam give the history of famine in the district. The district as a whole is liable to famine and has been affected by it many times since 1792. The more serious of them is the one that occurred in 1919. The people are described there as law abiding, hard working and contented, and it is said " the Oriyas seem to prefer starvation to taking relief at kitchens or on relief works ". In spite of this, expenditure on famine in 1919 amounted to 38,64 and remission of land revenue to the extent of 1,32 had to be granted. The latter figure was reported to me by the Board's office at Madras. The details of 38,64, which have been gathered from the Collector's report to the Board of Revenue, are given below:—

Salaries	78
Travelling allowance	22
Contingencies	2
Gratuitous relief in villages	14,24
Casual relief	7
Kitchen relief	6
Public Works Department relief works	23,25
TOTAL	38,64

(2) The following items collected from different sources indicate the expenditure necessitated by the cyclone and flood of 1923-24:—

(*a*) Government grant for damages to roads	35
(*b*) Irrigation working expenses in 1924-25, particularly in the Rushikulya and Ganjam minor river systems in Chicacole area rose by about a lakh on account of heavy repairs due to cyclone damages	1,00
(*c*) Actual famine expenditure recorded in 1923 and 1924-25 under 43—Famine Relief amounts to	24
(*d*) Bahuda bridge on the Trunk Road will require reconstruction on account of damages due to flood at a cost of	2,83 (estimate).

(3) The closing balance of the famine insurance fund for the Presidency as a whole at the end of 1927-28 is estimated at 36,35. Madras have to pay 6,61 a year to the fund and should reach the limit at which contribution to the fund can be stopped in 1928-29. Presumably Bihar will get some share of it and the matter will require negotiation between the two Governments. Famine expenditure, should it unfortunately occur in the near future, could be met from the fund balance transferred to Bihar. Having regard

to the heavy famine expenditure of 1919, it is doubtful whether the fund transferred to Bihar would be sufficient to meet a calamity of a serious nature. Meanwhile it seems unnecessary or rather impossible to suggest any provision for famine expenditure in the standard figure and we may leave out of account the 8 worked out as average of last 3 years.

XXXIII—Superannuation.

38. The Accountant-General's figures are slightly different from those given by the Treasury and give an average of 8 which may be taken for a standard.

45—Superannuation.

39. An important question of principle arises here which will probably have to be settled between the two Governments. The position as regards these charges is now quite different from what it was in the pre-reforms days. In the pre-reforms days pension charges incurred in England would be a central charge and a pension drawn in any province would be a charge against the revenues of that province irrespective of the province where the retired officer may have served. This was all right when the provinces did not enjoy the same financial autonomy as now. Now a pension sanctioned before 1st April 1921 is a charge on the revenues of the province from which it used to be drawn and a pension sanctioned on or after 1st April 1921 is ordinarily shared by the provinces according to the length of service rendered in each. If and when Ganjam is taken over by Bihar, how will the pension drawn in the district be dealt with? We have presumably no precedent of territorial redistribution which will exactly meet the case. The following considerations arise:—

(*a*) Pension is a kind of deferred pay, *i.e.*, it is a liability which, instead of being met along with ordinary pay as it becomes due, is postponed for liquidation at a later date.

(*b*) Taxes are levied generally perhaps to the extent necessary to meet present requirements.

(*c*) Can we infer from this that the liabilities of the Madras Government in respect of the pensions of their servants which have not been met from the taxes raised in Ganjam in the past should be liquidated by them in the future, *i.e.*, pension liabilities incurred up to the date of separation of Ganjam from Madras should remain with Madras? If this be the correct view, of which I am not sure, then the pensions earned by service in Bihar, after the transfer of Ganjam, should alone be a charge on Bihar revenues and pensions earned by service in Ganjam prior to its transfer should be a charge on Madras revenues.

(2) As already stated this question will require consideration by the two Governments. Meanwhile we may take for the standard a figure suggested by actuals. The Accountant-General's actuals are different from those of the Treasury and his average is 1,33 against 1,25 shown by the Treasury. We may take 1,33 as standard. The question whether we should have to take over the capital expenditure on commutation of pension financed from loan this year will arise. Here also I have assumed for present purposes that it will be taken over by Bihar.

XXXIV—Stationery and Printing.

40. The actuals are constant and the small figure of 3 does not call for comments. It may be accepted as standard.

46—Stationery and Printing.

41. The Treasury actuals of 21 for 1924-25 was found to be incorrect and it should be 2 only. The average thus comes to 3. There is a small hand-press attached to the Collectorate, mainly for Oriya printing. It may not be required in the future as the Secretariat Press at Patna could perhaps take up the work done at Ganjam. For present purposes we may let it stand.

(2) For Stationery stores and also perhaps for form printing some allowance should be made in the standard. It has not been possible to get any figures from the Press at Madras to make an accurate idea of what stationery and printing of forms for Ganjam cost. As regards forms printing the Gaya Jail Press would do the work with Jail labour and the addition of a district may not make an appreciable difference in the staff employed. At any rate, it cannot be accurately estimated. The " stationery stores " which seem to include cost of paper in Madras comes to 8,87 according to the budget of 1927-28. This is for 24 districts in the Presidency and for present purposes we may take 1/24th of 8,87, *viz.*, 37.

For the standard figure we then get $3+37=40$.

XXXV—Miscellaneous.

42. The average of 10 may be accepted as standard.

47—Miscellaneous.

43. The average of 3 may be taken for standard.

51A. Miscellaneous Adjustment between Central and Provincial.

44. This head is for expenditure on the training of probationers of the Indian Civil Service and other services in the United Kingdom. Nothing need be provided for this.

52—Extraordinary charges.

45. The Accountant-General's actuals are *nil*. Nothing need therefore be provided.

Conclusion.

46. According to the suggestions made in the above notes Revenue and Expenditure for the whole of Ganjam will be—

Revenue Provincial	38,63
Expenditure Provincial	45,14
Deficit .	6,51

(2) But it is at present proposed to exclude the revenues and expenditure of Chicacole, Tekkali, Sompeta and Parlakimedi taluks. The Treasury figures of revenue as given by the Madras Government in the statement enclosed with their letter No. 2589-A-2, dated the 18th October 1926, for these excluded areas, excluding cash remittances (248 + 227) is—

Chicacole	7,17
Other areas (Tekkali, etc.)	6,00
	13,17

Forest and Public Works receipts included in the Treasury accounts under "Cash Remittances" for the four excluded areas as supplied by the Collectorate were—

1	2	3
	Forest.	Public Works Department.
1923-24	39	Negligible.
1924-25	37	2
1925-26	37	2
	Say 38 a year.	Say 2 a year.
		40 a year.

Receipts for the excluded areas thus amount to 13,17 + 40 = 13,57.

(3) According to the figures supplied by the Collectorate, expenditure in the excluded areas was as follows in 1925-26:—

1	2	3	4
	Chicacole.	Tekkali, etc.	Total.
For all heads other than Forest and Public Works Department	4,12	3,86	7,98
Forest Expenditure	...	...	26
Public Works Expenditure	...	...	48
TOTAL .	...	...	8,72

(4) It is not safe to take the figures for the excluded areas as anything better than very approximate. For the Accountant-Gene-

ral's office have not sub-treasury figures with which they could verify them and the Collectorate could give me only actuals for one year only (1925-26) for expenditure in these areas. The district as a whole appears to be a deficit district, the annual deficit as worked out being 6½ lakhs. With the four taluks separated from Ganjam the deficit will increase further—

(*a*)	Revenue of Ganjam as a whole	38,63
	Deduct for excluded areas	13,57
		25,06
(*b*)	Expenditure of Ganjam as a whole . . .	45,14
	Deduct for excluded areas	8,72
		36,42
	Net deficit, difference of (*a*) and (*b*) . . .	11,36

i.e., over 11¼ lakhs.

(5) Separate notes relating to "Loans", Salt and Buildings and Equipment will be found in Appendices III to VI.

(6) I am grateful to all the officers and their staff who have helped me with advice, facts and figures, and particularly to the Accountant-General, Madras, and his office and the Treasury Department of the Ganjam Collectorate without whose ungrudging help it would not have been possible for me to finish this enquiry in three weeks.

U. M. SEN.

APPENDIX I TO MR. U. M. SEN'S NOTE.

RECEIPTS OF THE GANJAM DISTRICT.

[In thousands of rupees.]

1	2	3	4	5	6	7
Heads.	1923-24.	1924-25.	1925-26.	Total.	Average.	Suggested standard.
II.—Taxes on income . .	..	..	..	..	..	9
V.—Land Revenue . .	..	..	..	71,15	23,72	18,32
VI.—Excise . . .	12,25	11,52	11,01	34,78	11,59	11,25
VII.—Stamps . . .	..	4,86*	..	..	..	..
	5,18	5,86	5,64	16,68	5,56	5,85
VIII.—Forests . . .	..	..	..	..	..	1,78
IX.—Registration . .	86	80	94	2,60	87	87
XIII.—Irrigation . .	..	..	..	..	..	—90
XIV.—Irrigation . .	3	2	..	..	2	2

*Accountant-General's figures.

1	2	3	4	5	6	7
Heads.	1923-24.	1924-25.	1925-26.	Total.	Average.	Suggested standard.
XVI.—Interest . . .	..	..	..	..	26	26
XVII.—Administration of Justice.	34	30	36	1,00	33	33
XVIII.—Jails and convict settlements.	7	4	6	17	6	6
XIX.—Police . . .	11	13	13	37	12	14
XXI.—Education . .	7	1	1	9	3	1
XXII.—Medical . . .	*2	*2	..	..	..	..
	10	4	2	16	5	2
XXIII.—Public Health .	*1	..	..	..	..	..
	7	..	2	9	3	1
XXIV.—Agriculture . .	*1	..	..	..	..	..
	6	1	2	9	3	1
XXV.—Industries . .	8	6	7	21	7	7
XXVI.—Miscellaneous Departments.	8	8	9	25	8	8
XXX.—Civil Works . .	13	12	12	37	13	15
XXXIII.—Superannuation .	*7	*8	*9	*24	*8	8
	3	5	7	15	5	
XXXIV.—Stationery and Printing.	2	3	3	8	†3	3
XXXV.—Miscellaneous .	7	12	11	30	10	10
XXXIX.—Miscellaneous adjustments between Central and Provincial.	..	..	..	..	..	..
Cash Remittances . .	71,91	1,17,49	1,15,16	3,04,56	1,01,52	..
Total for whole of Ganjam .	..	..	..	..	‡1,44,65	38,63
Deduct for excluded areas .	..	..	..	..	17,91	—13,57
					1,26,74	25,06

*Accountant-General's figures.
†Figure originally reported was 6.
‡Excluding Accountant-General's figure marked with asterisk.

APPENDIX II TO MR. U. M. SEN'S NOTE.

EXPENDITURE OF THE GANJAM DISTRICT.

[In thousands of rupees.]

1 Head of Account.	2 1923-24.	3 1924-25.	4 1925-26.	5 Total.	6 Average.	7 Suggested standard.
5.—Land Revenue . .	3,80	33	41	3,72	1,24	54
6.—Excise . . .	*Nil*	73	77	1,50	50	82
7.—Stamps . . .	12	11	14	37	12	15
8 & 8A.—Forests . .	..	..	..	..	..	2,30
9.—Registration . .	56	58	61	1,75	58	58
14.—Interest on Irrigation .	..	..	..	..	..	1,61
15.—Minor Irrigation Expenditure.	69	75	72	2,16	72	1,18
21.—Reduction or avoidance of debt.	..	..	..	..	..	..
22.—General Administration	6,00	9,82	9,39	25,21	8,40	9,81
24.—Administration of Justice	2,12	1,94	1,93	5,99	2,00	2,00
25.—Jails and Convict Settlements.	49	52	49	1,50	50	50
26.—Police . . .	5,79	6,89	6,76	19,44	6,48 *6,45	6,95
31.—Education . . .	6,67	7,07	7,87	21,61	7,20 *7,23	8,66
32.—Medical . . .	98	1,01	1,04	3,03	1,01	1,34
33.—Public Health . .	30	34	42	1,06	36	42
34.—Agriculture . .	36	39	37	1,12	37	37
35.—Industries . . .	1	6	10	17	6	10
37.—Miscellaneous Departments	7	5	4	16	5	5
41.—Civil Works . .	2,79	2,74	2,72	8,25	2,75	6,00
43.—Famine Relief . .	1	23	..	24	8	..
45.—Superannuation . .	98 *1,11	1,18 *1,19	†1,59 *1,69	3,75 *3,99	1,25 1,33	1,33

* Accountant-General's figures.

† Includes 20 in March 1926 for commutation.

1	2	3	4	5	6	7
Head of Account.	1923-24.	1924-25.	1925-26.	Total.	Average.	Suggested standard.
46.—Stationery and Printing	5	21	3	29	9	40
47.—Miscellaneous . .	4	3	2	9	3	3
51.—Contribution to the Central Government by Provincial Government and 51A. Miscellaneous adjustment.	..	..	..	..	..	..
52.—Extraordinary charges .	..	..	18	18	6	..
Cash Remittances . .	29,37	34,27	35,69	99,33	33,11	..
Total for whole of Ganjam	..	..	..	..	(a)66,96	45,14
Deduct for excluded areas	..	..	..	..	..	—8,72
Total .	..	..	..	..	..	36,42

(a) Excluding Accountant-General's figures marked with asterisk.

APPENDIX III TO MR. U. M. SEN'S NOTE.

LOANS.

The following are the various classes of loans outstanding in Ganjam which the Government of Bihar and Orissa may be expected to take over:—

(1) Class I Loans.

(a) Land Improvement Act Loans—

at 6¼ per cent.	37	balance on 1st April 1926.
at 7½ per cent.	1,28	Ditto.
TOTAL .	1,65	Ditto.

(b) Agriculturists' Act Loans—

at 6¼ per cent.	19	
at 7½ per cent.	1,16	
TOTAL .	1,35	
TOTAL .	3,00	Ditto.

Class IV Loans.

Berhampore Municipal Council loans sanctioned before 1st October 1916—

of 1,50	92	balance on 1st April 1926.
of 26	12	Ditto.
of 10	5	Ditto.
	1,09	Ditto.
Ganjam District Board Loan	90	Granted in 1926-27.
TOTAL	1,99	

(Parlakimedi municipal loans, of which outstanding balance on 1st April 1926 was 21 may be ignored as this relates to an excluded area.)

Total outstanding loans Classes I and IV is thus—

	4,99
Say	5,00

(2) Capital expenditure on Russellkonda Saw Mill met from loans funds up to 30th June 1926 amounts to 4,39, interest at 5·20 per cent.

(3) Communications of pensions financed from loans in 1926-27, 10.

(4) Irrigation Loans.

Rushikulya system Capital outlay met from loans funds—outstanding balance on 31st March 1926 47,73

(Ganjam minor river system falls in Chicacole, an excluded area. The outstanding loan for this project was 12 on 31st March 1926 and interest was 1 for a year. But this may be ignored.)

(5) The question may also arise whether Bihar should not take over part of the unproductive debt representing revenue deficits of the Presidency.

Bihar's liability for loans will thus amount to—

Classes I and IV	5,00
Commutation of pensions from Loans funds	10
Russellkonda Saw Mill loans	4,39
Irrigation loans	47,73
TOTAL	57,22

i.e., over half a crore apart from share of revenue deficits debt.

(6) There is no sinking fund.

APPENDIX IV TO MR. U. M. SEN'S NOTE.

SALT.

There was a combined salt and excise establishment in Madras before 1st April 1924. The cost of the combined establishment was distributed between Central and Provincial in the ratio of 1 (for Central) to 2 (Provincial). The adjustment was made in the Accountant-General's office and therefore there were no actuals for 1923-24 in the Treasury accounts under Excise. The receipts of the Salt Department were treated as "Cash Remittances, Salt remittances." It appears from the Administration Report for 1924-25 that the Salt Department was placed in charge of an Indian Civil Service Collector of Salt Revenue, subordinate to the Local Government, but independent of the Board of Revenue from 1st April 1924. There are three Assistant Commissioners' circles in the Presidency; one of the Assistant Commissioners is also the Secretary to the Collector of Salt. The strength of the staff including Inspectors, Assistant Inspectors, Sub-Inspectors, clerks and menials was 3,890 in the beginning—3,874 at the end of the year 1924-25.

2. The Salt Secretary was consulted. He said no profit accrues to the local Government from salt, and both revenue and expenditure are central. Preventive establishment is also a central charge.

3. No rents are realized to cover the cost of supervision. Government bear as supervision charges a sum equal to 5 per cent. of the duty realised. Excess over 5 per cent. of the duty is realised from the manufacturers. *Vide* Section 43 of Madras Salt Act No. IV of 1889.

4. There are monopoly factories side by side with excise factories. The object of the monopoly factories run by Government is to ensure that salt reaches the consumer at a reasonably low and steady figure. Accordingly Government have undertaken the responsibility not only of manufacture and wholesale disposal of salt but also for retail sales. Government salt is put on the market if the prices of excise salt show a tendency to rise. To avoid unnecessary accumulation of stock which may have to be sold at a loss or destroyed, another system was introduced in 1924-25 and is being gradually extended in the case of new assignments. Under this third system, Government hold a lien on a fixed percentage of a licensee's salt for one year instead of buying it outright.

The total salt revenue in the Presidency was 1,94,97 lakhs in 1924-25, of which Rs. 17·05 lakhs was duty and cost price realised in cash and Rs. 1,75·05 lakhs the duty on salt sold on credit and the balance Rs. 2·62 lakhs customs duty, cess and fines.

The total charges in the Presidency amounted to Rs. 17·39 lakhs of which Rs. 10·54 lakhs were the recurring charges for establishment, supplies and services and contingencies of the department and Rs. 6·85 lakhs charges for the purchase, transport and storage

of salt and the recoverable charges on account of Excise licensees' works.

Closure of factories for the manufacture of crude saltpetre and also of refineries was ordered from the 1st October 1925.

APPENDIX V TO MR. U. M. SEN'S NOTE.

BUILDINGS, EQUIPMENT, ETC.

Berhampore.

I visited Berhampore on my way back from Madras and spent a day there (Monday, the 4th April 1927).

2. Berhampore town is about 3 miles long and a mile wide. It runs from east to west. In the morning I visited the more crowded part of the town in the west. The main post office is there. Within a furlong are most of the offices, *viz.*, those of the Sub-Collector—the head executive officer of the town, the Tahsildar, the Sub-Treasury, the Sub-Magistrate, the Taluk Board and the Subdivisional Officer of the Public Works Department of the Taluk Board. All these are *pucca* buildings but with tiled roofs. Very close to these offices there is the Government dispensary and hospital, a fairly big institution. There are two churches, one for the Protestants, and another for the Catholics besides the Government church. In this part of the town there are also located the Kalicota Intermediate College, and a private institution and also school teaching up to the School Leaving Certificate Examination. There is also a Government Middle School for girls which will probably go over to the taluk board soon.

3. The District Judge, the Sub-Collector (an I. C. S. Officer), the District Medical Officer and the Executive Engineer have all their residences in the eastern part of the town—a less crowded part. There is also the District jail nearby, and also a European club house. The offices of the District Judge, Sub-Judge and Munsiff are also there located in Government buildings. The residential buildings seemed quite decent from outside. The Judge's office has a big compound or rather a big field on one side. The office buildings are *pucca* but with tiled roofs. As the offices were closed for a Muhammadan holiday, it was not possible to see the inside of any of the buildings.

4. Midway between the Sub-Collector's Court and the District Judge's Court there is a Zanana Hospital run by some Christian Mission. There is a bazar within a furlong of this hospital, but I was told the big shops are at some distance from it. I could not visit the part of the town where the big shops are located.

5. The drains are *cutcha*. Water is supplied to the town through pipes and there are standposts here and there by the side of the roads. I understand drinking water is obtained for the town from

some reservoir near Surada—connected with the irrigation system in the north (the Rushikulya system). The roads are metalled and good enough for wheeled traffic. There are hardly any carriages drawn by horses in the town. *Jhutkas* drawn by bullocks are the chief means of conveyance. There is a motor service running between Berhampore and Chatrapur, and the rich inhabitants have their motor cars and the lower middle class their bicycles.

CHATRAPUR.

6. *Chatrapur.*—The Collector's headquarters—is 10 to 12 miles from Berhampore. Chatrapur is on the main Bengal Nagpur Railway and there is also the motor lorry service connecting it with Berhampore. Besides the Collector, the Superintendent of Police and the District forest officer are located at Chatrapur with their offices. The Tahsildars and the District Board offices and the District Registrar's office are nearby. The dispensary there is a local fund institution and is in charge of an Assistant Surgeon. The Sub-jail is a small one and is under the Treasury Deputy Collector and located near the Treasury building. There is a post office and also a club with tennis and badminton courts mainly for the Indians—official and non-official—occasionally visited by the Collector and the European officers. The bazar is a poor one and is meant to meet the needs of the Indian population of limited means. The Europeans get their stores from Berhampore.

7. The roads in Chatrapur are good. As in Berhampore there is difficulty in moving about for want of carriages drawn by horses and the chief means of conveyance is the *jhutka* or bullock cart. The high officials of course have their cars and there is the motor lorry service. Drinking water is obtained from wells and tanks. There are big *tamparas* (depressions with shallow water) near about the town used perhaps for watering the fields nearby.

DISTRICT.

8. I secured a list of Government buildings in the district of Ganjam from the Executive Engineer's office and had a copy made at the Collector's office. This gives their size, condition, etc. In Appendix VI will be found in a convenient form the information collected from the Sub-Collector's office at Berhampore as to the officers who have got buildings for their offices and residences. The Executive Engineer reported in a note sent in this connection that the buildings are generally in good condition. So far as I could gather there are no proposals for extensive renewals or replacements, except in the case of the Collector's cutchery at Chatrapur, for which a new site was purchased some years ago and the Aska taluk office which is to be rebuilt at a cost of 67 of which 20 has been put in the budget of 1927-28. It is uncertain when the Collector's new cutchery will be taken up. The buildings seemed to be in a dilapidated condition and the Collector's office room was blown down by the last cyclone and he holds his office in his residence at some

distance from the cutchery. As noted elsewhere the Collector's model village scheme for Ghumsur Udaigiri has been approved by Government. It is estimated to cost 64 and may require 1,00 ultimately. A heavy programme of bridging projects and metalling roads also exists, which may cost 16½ lakhs as stated already under "41—Civil Works". The roads are mainly local fund affairs, but Government has to contribute heavily for bridges particularly. The maintenance of trunk and second class roads in the agency portion of the district has become a Public Works Department charge from 1st April 1927. Prior to that date they were maintained by agency local boards partly subsidized by Government.

APPENDIX VI TO MR. U. M. SEN'S NOTE.

Information collected from the Sub-Collector's office at Berhampore as to which of the officers have Government buildings for their offices and residences.

Officers.	Government building for office.	Government quarters.
1	2	3
REVENUE.	(1) *Berhampore division.*	
1 Sub-Collector	Yes	Yes.
1 Tahsildar	Yes	No.
1 Sub-Magistrate	Yes	No.
EXCISE.		
1 Inspector of Excise	Private building	No quarters.
1 Sub-Inspector of Excise	No.	No.
REGISTRATION.		
1 District Registrar 1 Joint Registrar.	Yes, one for two	No quarters.
CIVIL.		
1 District Judge	Yes	Yes.
1 Sub-Judge	Office located in a *private* building.	No.
1 District Munsif.	Yes	No.

Officers.	Government building for office.	Government quarters.
1	2	3
JAIL.		
Superintendent of Jail . . .	Yes, in the jail buildings . .	Yes, in the jail buildings.
Jailor and Warders, Sub-Assistant Surgeon.	Ditto	Ditto.
POLICE.		
1 Inspector	Yes, in the Thana buildings .	No.
1 Sub-Inspector for town . .	Do. in the same buildings . .	Yes
1 Sub-Inspector for taluk . .	Separate thana building . .	Yes.
Head Constables and constables .	....	Yes
EDUCATION.		
1 District Education Officer . .	Office located in a *private* building	No quarters.
Government Girls' Middle School .	Government buildings . . .	..
Government Training School .	Yes	No.
MEDICAL.		
1 District Medical Officer . .	Office is in Local Fund building .	Yes.
1 Assistant Surgeon . . .	Do.	No.
Hospital	Government buildings . . .	There are Sub-Assistant Surgeon's quarters built by Government.
AGRICULTURE.		
Veterinary Hospital . . .	Yes, Government building.	
PUBLIC WORKS DEPARTMENT.		
1 Executive Engineer (in charge of Irrigation and Government buildings in the district	Yes	Yes.
1 Sub-Divisional Officer (ditto for Behrampore Sub-Division)	Yes	No.
Overseers	Yes, in the Sub-divisional Officer's office.	No.

Officers.	Government building for office.	Government quarters.
1	2	3
	(2) *Chatrapur division.*	
Collector	Yes	Yes.
Treasury Deputy Collector	Yes	Yes.
General Deputy Collector	Yes	No.
Tahsildar Magistrate	Yes, in the same building with General Deputy Collector.	No.
Assistant Collectors (on training)	No	Yes.
EXCISE.		
Sub-Inspector	No	No.
FOREST.		
District Forest Officer	Yes	Yes.
REGISTRATION.		
Sub-Registrar	Yes	No.
JAILS.		
Sub-Jail	Yes	....
POLICE.		
Superintendent of Police	Yes	Yes.
Sub-Inspector and Head Constables and constables.	Yes, in thana	Yes.
Reserve Inspector and Sergeants and constables.	Yes, in Superintendent's Office	Yes.
EDUCATION.		
Deputy Inspector of School	No	No.
MEDICAL.		
Assistant Surgeon (with hospital run by Local Board).	....	Yes.
AGRICULTURE.		
Agriculture, Veterinary, Co-operative.	No	No.

Officers.	Government building for Office.	Government quarters.
1	2	3
PUBLIC WORKS DEPARTMENT.		
Overseers	No	No
	(3 *Ghumsur division.*	
REVENUE.		
1 General Deputy Collector . .	Yes	Yes.
1 Sub-Magistrate . . .	Yes	No.
1 Special Assistant Agent of the Balliguda Agency division located at Russellkonda.	Yes	Yes.
EXCISE.		
1 Sub-Inspector	No	No.
REGISTRATION.		
Sub-Registrar	Yes	No.
Jails	Yes, Sub-Jail	....
POLICE.		
1 Assistant Superintendent of Police	In rented bungalow . . .	Yes.
1 Reserve Inspector . . .	Ditto	No.
1 Circle Inspector . . .	Yes, in the thana . . .	No.
1 Sub-Inspector	Yes, in the thana . . .	Yes.
Police Hospital	Yes (Government buildings) .	Yes, for the Sub-Assistant Surgeon.
EDUCATION.		
1 Deputy Inspector of Schools .	No	No.
MEDICAL.		
Assistant Surgeon . . .	Local fund hospital . . .	Local fund quarters.
AGRICULTURE.		
Veterinary Surgeon, Agricultural Demonstrator.	No	No.

Officers.	Government building for office.	Government quarters.
1	2	3
PUBLIC WORKS DEPARTMENT.		
Sub-divisional Officer . . .	Yes	Yes.
	(4) *Aska Taluk within Ghumsur division.*	
REVENUE.		
Tahsildar and Magistrate . .	Yes	No.
EXCISE.		
Sub-Inspector	No	No.
Distillery Officer	Private buildings . . .	Private quarters.
REGISTRATION.		
Sub-Registrar	Yes	No.
CIVIL.		
District Munsif	Yes	No.
POLICE AND JAILS.		
Inspector of Police . . .	Yes, in the thana . . .	No.
Sub-Inspector	Ditto	No.
Sub-jail	Yes, attached to the thana . .	No.
EDUCATION.		
Deputy Inspector . . .	No	No.
Government Girls' School . .	Yes	No.
MEDICAL.	Local Fund Dispensary . .	Local fund quarters.
AGRICULTURAL.		
Co-operative Inspector . .	No	No.
PUBLIC WORKS DEPARTMENT.		
Overseer	No	No.

THE TRANSFER OF SYLHET FROM ASSAM TO BENGAL.

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The transfer of Sylhet from Assam to Bengal.

The scope of the note.

1. In 1926 the Secretary of State ruled that the transfer of the district of Sylhet from the province of Assam to the province of Bengal could not be dissociated from the question of the future form of administration of the province of Assam. The Government

of India, agreeing with that ruling, decided to reserve these two questions, namely, the transfer of Sylhet and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission. In this memorandum a brief statement is given of the discussions which led up to the issue by the Secretary of State in 1926 of the orders cited above. The Government of India have not since then been in touch with local opinion in the matter of the suggested transfer. Views may have changed, and it is possible, therefore, that opinions previously expressed by those directly acquainted with the question may no longer hold good, or may require modification.

Early protests in 1874 against the inclusion of Sylhet within the newly-constituted province of Assam.

2. The Chief Commissionership of Assam, as originally constituted by notification issued on the 6th February 1874, did not include the Sylhet district. It was, however, added to it a few months later by a notification dated the 12th September 1874. When the territorial jurisdiction of the new province was under discussion, it was recognised that the fact that Sylhet was a regulation district and permanently settled was an argument for its exclusion: on the other hand, the communications of Sylhet were with Assam, Shillong and Cachar far more than with Calcutta and, owing to the tea interests, it was felt that the Shillong, Cachar and Sylhet districts could hardly be disconnected from each other. Moreover, Sylhet was not a permanently settled district as a whole: its land-system comprised no less than 33 different kinds of tenures. Out of more than 77,000 estates only 52,117, many of which were extremely small, had been permanently settled, the remainder of the estates being temporarily settled. Further, the Dacca division to which the Sylhet district then belonged was of unwieldy dimensions. In the circumstances it was decided that it was preferable that Sylhet should come under more direct supervision than could be exercised from Calcutta. The Sylhet district had for these reasons from the first been included with Assam in the proposals submitted by the Government of India, but orders for its inclusion were deferred by the Secretary of State pending an assurance that its inclusion in the new province would not entail interference with the laws at that time in force in it.

A memorial protesting against the inclusion of Sylhet in the new province of Assam was submitted at the time by persons describing themselves as the inhabitants of the district of Sylhet, and was considered and rejected by the Government of India. The memorialists appeared to have been alarmed at the prospect of the amalgamation of the district with a non-regulation province and misapprehended the effect of the measure which was intended mainly to localise the Government, and thus improve it by placing all important matters under the management of local authorities directly responsible to the Governor-General in Council. Though the memorial was rejected, the memorialists were given an assurance that no change would be made in the Sylhet district either in the system of law or judicial procedure or in the principles of assessment and collection of land revenue which applied through-

out Bengal. This decision was apparently accepted as final, since nothing was heard of the matter for the next 31 years.

Agitation in 1911 and the succeeding years for the inclusion of Sylhet in Bengal instead of in the reconstituted province of Assam.

3. In 1905 the formation of the province of Eastern Bengal and Assam re-united Sylhet with the Bengal districts with which it was most closely connected, but when the announcement of the dissolution of that province in 1911 threatened again to separate Sylhet from Eastern Bengal, an agitation was immediately set on foot for the incorporation of Sylhet in Bengal instead of in the re-constituted province of Assam. Hindu educated opinion was generally in favour of re-union with Bengal; Muslim opinion was at first divided, but as experience was obtained of the working of the new administration, many Muslims, who had at first supported the agitation for inclusion in Bengal, changed their views, and a largely attended public meeting of Muslims convened in August 1912, at the instance of the Anjuman-i-Islam, Sylhet, passed a unanimous resolution in favour of remaining in Assam. The agitation which had been raised then gradually subsided.

Revival of the agitation at the time of the last reforms.

4. The movement in favour of amalgamation with Bengal was next revived at the time of the discussions regarding the proposed constitutional reforms. An address on the subject was presented to the Secretary of State and His Excellency the Viceroy by a number of inhabitants of the Sylhet district in 1917, and the question was also brought up in the Indian Legislative Council early in 1918 in the course of a general debate on the adjustment of provincial boundaries. The Government of India commented on the matter in paragraph 13 of their Ninth Reforms Despatch No. 7, dated the 5th June 1919, in which they said that they had no evidence that there was any general desire for a transfer of the Sylhet district to Bengal and observed that they agreed with the authors of the report and with the Chief Commissioner that redistributions of provincial areas should not be imposed by official action and should follow rather than either precede or accompany reforms. The actual proposals laid before the Secretary of State by the Government of India in the Ninth Despatch for the form of administration to be set up in Assam were not accepted, and the Joint Select Committee of Parliament decided not to differentiate the case of Assam from other provinces. It was, therefore, constituted a Governor's province, the district of Sylhet remaining as previously under the Assam Administration. Meetings in favour of re-union were then organised. A Sylhet-Bengal Reunion League was formed, and, in 1920, decided that a deputation should address His Excellency at the time of his visit to Assam; but as the Surma Valley Conference had in the meanwhile adopted non-co-operation and resolved that no addresses should be presented to His Excellency, the proposed deputation fell through and the League was dissolved. In the course of the debate on a resolution on the subject of the redistribution of provinces moved by Mr. Latthe in the Legislative Assembly on the 21st September 1921, some reference was made to the position of Sylhet, and the Home

Member, on behalf of the Government of India, promised careful consideration if the Assam Council made recommendations.

A resolution for the amalgamation with Bengal of the districts of Sylhet and Cachar passed by the Assam Legislative Council in July 1924.

5. There was no debate on the subject of Sylhet in the first reformed Assam Council. In the second Council the matter was brought up by one of the leaders of the Nationalist party, Babu Brajendra Narayan Chaudhuri, who moved a resolution on the 29th July 1924, recommending the transfer of the district of Sylhet to the administration of Bengal. In support of his resolution, the mover stated that with the exception of a small proportion of imported labour on the tea-plantations practically the whole of the remainder of the indigenous population was Bengalee by race and by speech, and bound by ties of blood and social relationship with the Bengalee population of the neighbouring districts of the province of Bengal; Sylhet had no affinity, either linguistic or social, with Assam from which it is separated by a barrier of mountain ranges; there was no tendency on the part of the inhabitants of Sylhet to merge themselves with the inhabitants of Assam, and a half-century's administrative connection with the Assamese had produced no appreciable change in the social sentiments of the people of either of these two races. The mover drew attention also to administrative differences between Sylhet and Assam. The greater part of Sylhet, like Bengal, is permanently settled, whereas the rest of Assam, except the Bengalee-speaking district of Goalpara, is temporarily settled. Sylhet has the Bengal judicial system of Subordinate Judges and Munsifs, while in Assam the Civil Courts are presided over by executive officers. In the Surma Valley, comprising both Sylhet and Cachar, Bengalee is the court language; in the rest of the province Assamese is the court language. The mover referred to the early history of the agitation of the people of Sylhet for union with Bengal, and relied upon paragraph 246 of the Joint Report in support of his argument that the transfer of the district to Bengal should be effected without delay. He referred to pledges given by Lord Chelmsford that the people of Sylhet should remain under the jurisdiction of the Calcutta High Court and should retain their connection with the Calcutta University. He argued that this pledge would become increasingly difficult to fulfil as the province of Assam continued to develop upon lines of its own. He stated that Sylhet is a deficit district and suggested that the finances of the province of Assam would be benefited if relieved of charges on account of Sylhet, since it would then at the same time be possible for the top-heavy executive of the province to be lightened.

The resolution was opposed by Mr. J. E. Webster, Member of the Executive Council in charge of the subjects of Land Revenue and Finance, who stated that the Government of Assam were not prepared to accept the resolution, and that he would himself vote against it, but that other official members would have full liberty to vote as they thought fit in the interests of the province. The points taken by Mr. Webster in his speech were that Government would require in the first place to have an assurance that the de-

mand for the transfer of Sylhet to Bengal was an effective and intelligent demand on the part of the majority of the people of Assam; the transfer of the Sylhet district could not be considered solely with reference to the wishes of the inhabitants of that district alone; while Government recognised that there was amongst a section of the people of Sylhet a feeling that they ought to be joined to Bengal, Government were not convinced that this demand came from a very large proportion of the people of Sylhet, certainly not from the majority. He suggested that since Sylhet, which was represented by thirteen members in the Council and at that time by one of the Ministers, had so large a voice in the management of the affairs of the province of Assam, it might not be to the interest of the district to merge itself in the province of Bengal. The effect of the transfer of the province of Assam was, however, the main issue for members to consider.

In the course of the debate a Muslim member, Khan Bahadur Alauddin Ahmad Chaudhuri, stated that he was one of those who had previously been in favour of the union of Sylhet with Bengal; he had, however, since then changed his mind. The people of Sylhet would, in his opinion, come under grave disadvantages both in matters of the land-revenue law and in other respects if amalgamated with Bengal, while he felt that the existing form of administration would not be able to continue in Assam if Sylhet were cut off from that province. A representative of the tea-planters opposed the resolution since he feared that the transfer of Sylhet would merely lead to demands for other districts also to be amalgamated with Bengal.

At a rather late stage in the debate a member moved an amendment to include Cachar within the terms of the resolution. This amendment was accepted, and the resolution was passed in its amended form by 22 votes to 18.

The proceedings of the Assam Legislative Council were reported to the Government of India by the Government of Assam in their letter No. Pol.-1917-5585, dated the 30th October 1924 (Serial No. 1 in Appendix I). In that letter the Government of Assam stated that both in Sylhet and in Cachar further enquiry would have to be made to ascertain the real wishes of the people before any action could be taken, but they suggested that as a preliminary step the general views of the Government of Bengal might first be ascertained.

The Government of Bengal report the absence, in that province, of any active demand for the transfer; January 1925.

6. On a reference being made to them by the Government of India the Government of Bengal replied in their letter No. 635-P., dated the 15th January 1925 (Serial No. 2 in Appendix I), that there was no active demand in Bengal for the transfer to that province of Sylhet and Cachar and that the Governor in Council, therefore, would prefer that the question should not be raised. The financial effect of the change would in any case require very careful examination.

7. In November 1924, notice was given by a number of members of the Legislative Assembly of a resolution recommending that effect should be given to the resolution of the Assam Council passed in the previous July. The resolution obtained a low place in the ballot and was not debated. It re-appeared, however, on the 23rd January 1925, when it was moved by Mr. M. S. Aney. Mr. Aney claimed that it would be in accordance with the recommendations of the Joint Select Committee of Parliament that the wishes of the people of Sylhet and Cachar should be respected, and he considered that the transfer of those two districts to Bengal would not jeopardise the future status of the province of Assam. In this speech the Home Member stated that the introduction of Cachar brought a new element into the problem, and that the resolution obviously raised very serious questions. The total population of the whole province of Assam, as at present constituted, is 7,600,000. Sylhet has a population of roughly 2,500,000 and Cachar of a little over 500,000. If these two districts were to be transferred, 3 million of the population of Assam would be taken away, and the province would be left with a population of about 4 millions only. The position taken by the Government of India in the debate was that they would consider carefully any expressions of views by members of the Assembly, but that they would need to consult the Government of Bengal and to make further reference to the Government of Assam before they could come to any final decision. The debate was eventually adjourned till the September session.

A resolution supporting the transfer moved in the Legislative Assembly by Mr. M. S. Aney in January 1925; the debate adjourned.

8. The Government of India took the opportunity given by this interval to address the Government of Assam and request them—

(*a*) to ascertain and report the real wishes of the people concerned; and

(*b*) to prepare a financial statement.

Correspondence of the Government of India with the Government of Assam.

The Government of Assam replied in their letter No. 1573-Pol.-3860-A. P., dated the 11th August 1925 (Serial No. 3 in Appendix I). They estimated that in the Sylhet district there was an annual deficit of Rs. 4 lakhs. Hindu sentiment was stated to be in favour of union with Bengal; Muslim opinion to be divided. The Government of Assam added that they were not opposed to the transfer if the Government of India considered that the wishes of the majority of inhabitants should be respected, but that the transfer of Sylhet to Bengal should not be permitted to affect the status of Assam as a Governor's province.

With regard to Cachar, the Government of Assam observed that the transfer of this district had been added in the resolution passed in the Assam Council in July 1924 merely as an afterthought. Cachar had always been intimately associated with Assam, to which it had given a Cachar dynasty. The Bengalee element inhabiting the district of Cachar who form the majority of the population were new settlers there, and could scarcely claim

that they had annexed the district and had a right to demand its transfer to Bengal. The Governor in Council stated that several other members who had first supported the resolution for the transfer of Cachar had resiled from that position. Though there might be something to be said for the transfer of Sylhet there was, in the opinion of the Government of Assam, no case whatever for the transfer of Cachar.

Correspondence of the Government of India with the Government of Bengal. The Bengal Council passes a resolution in favour of the transfer of Sylhet but not of Cachar; August 1925.

9. The Government of India next sent the Government of Bengal a copy of the letter received from the Government of Assam and asked them for a provisional expression of their views. The Government of Bengal replied by submitting, for the information of the Government of India, a copy of a debate held in the Bengal Legislative Council on the 19th August 1925, proposing that the district of Sylhet should be transferred to Bengal. In that debate the position of the Government of Bengal had been explained to the Council by Sir Hugh Stephenson who said that, as a matter of abstract sentiment, the Government sympathised with the resolution; one of the principal matters for consideration would be the wishes of the people concerned, and on that point the Government of Bengal were not in a position to come to any decision, but the Government of Assam held the view that the local population were not unanimous in desiring amalgamation with Bengal; further, if the claims of Sylhet to amalgamation with Bengal were admitted, similar claims might be made in respect of other areas also, for instance, Manbhum, and the extension of such claims might be an embarrassment; lastly, financial considerations could not be ignored. He added, however, that the Government of Bengal retained an open mind on the subject, and if the resolution were pressed to a division the Government would take no part in it. An amendment was moved to associate Cachar with Sylhet in the resolution but was lost by 2 votes to 11. The original motion was then put and agreed to without a division. In reporting the results of the debate to the Government of India (Serial No. 4 in Appendix I) the Government of Bengal noted that their Legislative Council had had no real opportunity to consider the financial aspects of the case, and must have a second opportunity to express their views with a full knowledge of the financial implications. The Government of Bengal were themselves inclined to think that the actual extra cost to Bengal had been underestimated by the Government of Assam; for that reason, if Sylhet were included in Bengal the Bengal Government would claim an additional assignment at the expense of the Government of Assam. The Government of Assam had suggested that since the temporarily settled Jaintia parganas of the Sylhet district originally formed no part of the district of Sylhet, they should probably be excluded from any transfer of territory from Assam to Bengal. The Government of Bengal observed that their exclusion would aggravate financial objections.

Mr. Aney withdraws

10. Mr. Aney's resolution of the 23rd January 1925 was resumed for discussion in the Assembly on the 2nd September 1925,

but no further debate took place. The Home Member stated that the Government of India were in correspondence with the two local Governments concerned and expressed the opinion that further discussion in the Assembly at that stage could lead to no results. He stated that he proposed to circulate copies of the correspondence to all members of the Assembly, and suggested that the resolution might be withdrawn, and the matter discussed on a further resolution in the next session, when the problem could be dealt with in a more satisfactory way. On this assurance, Mr. Aney, by leave of the Assembly, withdrew his resolution.

his resolution in the Assembly; September 1925.

11. The Government of India then addressed the Governments of Bengal and Assam (Serial No. 5 in Appendix I), and expressed the following provisional conclusions:—

The provisional conclusions of the Government of India communicated to the Governments of Bengal and of Assam.

(1) the transfer of Cachar need not be further considered,

(2) the position of the Jaintia parganas required further examination,

(3) the future status of Assam should be treated as a separate question to be decided on its merits after the transfer of Sylhet had been made. The Government of India could give no undertaking to the Government of Assam that the transfer of Sylhet would not affect its status as a Governor's province.

(4) the Government of India recognised that a territorial readjustment between the provinces of Bengal and Assam had a bearing on the question of the Meston Settlement; but the Government of India Act did not contemplate contributions from one provincial Government to another and there could be no assignment of revenue by Assam to Bengal.

The Government of India suggested that there should now be a final discussion of the whole question in the Bengal and Assam Councils.

12. Shortly afterwards the Assam Government revised their financial statement and submitted a statement (Serial No. 6 in Appendix I) which showed that according to the latest figures for 1924-25 the deficit in the Sylhet district was reduced to Rs. $\frac{1}{2}$ lakh, if the share of headquarters and divisional charges were excluded. The view taken by the Government of Assam at that time was that if Sylhet, as part of Bengal, were administered on the lines of an ordinary outlying district of that Presidency there would be a surplus and not a deficit; they felt that the only result of the existing uncertainty was that feeling on both sides was running higher, and they regarded it as of the utmost importance that the future of Sylhet should be definitely settled one way or the other at the earliest possible moment.

The Government of Assam revise their estimates of the financial position.

13. The Government of Bengal elicited a debate in their Council by moving a negative resolution on the 2nd December 1925 (before the revised figures prepared by the Government of Assam were known) recommending that the Government of India be moved to

The Legislative Council of Bengal declares itself in

favour of the amalgamation of Sylhet with Bengal; December 1925.

abstain from taking any measures for the inclusion of the district of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to that province. The Government of Bengal calculated that the annual deficit on the Sylhet district would be about Rs. 7 lakhs. Sir Hugh Stephenson emphasised the financial objections in the course of the debate, but said that the Government of Bengal would be content to abide by the vote of the Council. The negative resolution moved by Government was lost by 46 votes to 64.

In reporting the results of this debate to the Government of India (Serial No. 7 in Appendix I), the Government of Bengal stated that they did not wish to oppose the desire of the Bengal Legislative Council expressed after the full facts had been made known to them; the revised figures of the Government of Assam were under examination, but did not affect that decision.

The Legislative Council of Assam declares itself in favour of the amalgamation of Sylhet with Bengal; and by a further resolution declares that such transfer should not affect the status of the province of Assam; January 1926.

14. In Assam a special session of the Legislative Council to consider this question was held on the 6th and 7th January 1926. Two resolutions were moved by Rai Bahadur Sadananda Dowera and were adopted by the Council; the first, on which the official members did not vote, by a majority of 26 votes to 12, and the second unanimously. The two resolutions read as follows:—

"(*a*) This Council recommends to the Governor in Council that the district of Sylhet be transferred to Bengal.

(*b*) While it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces."

In reporting the results of these two resolutions in the Assam Council (Serial No. 8 in Appendix I), the Government of Assam commented that within the last few months opposition to the transfer had been growing among the Muslims of Sylhet, while some of the Hindus were not quite so confident of the wisdom of the transfer as they previously had been; they were however now too far committed to withdraw. The members of the Assam Valley who voted with the majority had been influenced by two motives; they desired to allow Sylhet to realise what was considered to be a natural aspiration, and at the same time there was their own anxiety to be rid of Sylhet in order that the inter-valley rivalry, which they felt to be a bar to the progress of the province, might cease. The Government of Assam had ascertained that the people of the Jaintia parganas almost without exception desired to remain with Sylhet whether Sylhet went to Bengal or remained in Assam. In view of the fact that the Assam and Bengal Legislative Councils had now twice pronounced in favour of the transfer of Sylhet to Bengal, the Governor in Council would not feel justified in offering any

opposition to the fulfilment of their wishes, were it not for the uncertainty which had existed regarding the political future of Assam. For that reason he requested that any decision for the transfer of Sylhet to Bengal should be accompanied by an announcement regarding the political status of the rest of the province.

15. The quesion was then referred to the Secretary of State who ruled that the transfer of the district Sylhet from the province of Assam to the province of Bengal could not be dissociated from the question of the future form of administration of the province of Assam. This ruling of the Secretary of State was made known to the public in a communiqué dated the 16th June 1926 (Appendix II), in which it was stated that, agreeing with the ruling of the Secretary of State, the Government of India proposed to reserve these two questions, namely, the transfer of Sylhet, and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission.

The orders of the Secretary of State announced to the public by Press Communiqué; June 1926.

APPENDIX I.

Papers regarding the proposition that the District of Sylhet should be transferred from Assam to Bengal.

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Letter from the Government of Assam, No. Pol.-1917-5585, dated the 30th October 1924.

I am directed to forward for the information of the Government of India and for preliminary orders and extract from the proceedings of the Assam Legislative Council, at a meeting held on the 29th July 1924, relating to a resolution, which was ultimately carried, recommending the transfer of the districts of Sylhet and Cachar to Bengal.

2. The Government of India are aware of the history of the movement for the re-union of Sylhet with Bengal. The Chief Commissionership of Assam, as originally constituted in the Home Department's Notifications Nos. 379 and 380, dated the 6th February 1874 (Pub. A., January 1874, Nos. 157-67), did not include this district which was added to it a few months later by Notifications Nos. 2343 and 2344, dated the 12th September 1874 (Pub. A., September 1874, Nos. 222-33). A memorial protesting against the transfer of Sylhet to Assam, and purporting to emanate from "the inhabitants of the District of Sylhet" was submitted to His Excellency the Viceroy and Governor-General on the 10th August 1874 (Pub. A., September 1874, Nos. 258-59). The memorialists based their protest on the long association of Sylhet with Bengal, the absence of sympathy between Sylhet and Assam, the disadvantage of being yoked with a backward people, and the apprehension that the district would enjoy laws and institutions inferior to those to which it had been accustomed. The memorialists were informed, in a letter from the Government of India dated the 5th September 1874, that their prayer for retention in Bengal could not be acceded to, but that there would be no change whatever in the system of law and judicial procedure under which the inhabitants of Sylhet had hitherto lived, nor in the principles which applied throughout Bengal to the settlement and collection of land revenue. The decision appears to have been accepted as final, and no more was heard of the matter during the next 31 years. In 1905 (Pub. A., October 1905, Nos. 163-98), however, the formation of the province of Eastern Bengal and Assam re-united Sylhet with the Bengal districts with which it was most closely connected; and when the announcement of the dissolution of that province in December 1911 threatened again to separate Sylhet from Eastern Bengal an agitation was immediately set on foot for the incorporation of Sylhet in Bengal instead of in the reconstituted province of Assam. Hindu educated opinion was, and has remained, generally in favour of re-union with Bengal. Muhammadan opinion was at first divided, but as time went on experience was obtained of the working of the new Administration a number of influential Muhammadans who had at first supported the agitation for inclusion in Bengal realised that continuance in Assam was to the interest of the district and of their community. A largely attended public meeting of Muhammadans convened in August 1912 at the instance of the Anjuman-i-Islamia, Sylhet, and presided over by the President of the Anjuman, passed a unanimous resolution in favour of remaining in Assam. The agitation then subsided, but was revived in connection with the discussions regarding the proposed constitutional reforms. An address on the subject was presented to the Secretary of State and His Excellency the Viceroy by certain inhabitants of the Sylhet District in December 1917, and the question was also brought up in the Indian Legislative Council early in 1918 in a debate on the general subject of the adjustment of provincial boundaries. The Government of India commented on the matter in paragraph 13 of their Ninth Despatch, and agreed with

the view expressed in paragraph 246 of the Report on Indian Constitutional Reforms that redistributions of provincial areas should not be imposed by official action, and should follow rather than either precede or accompany reform. Meetings in favour of "re-union" were then organised. A "Sylhet-Bengal Re-union League" was formed, and in 1920 decided that a deputation should address His Excellency the Viceroy at his forthcoming visit to Assam, but, as the Surma Valley Conference meanwhile adopted non-co-operation and resolved that no addresses should be presented to His Excellency, the proposed deputation fell through and the League was dissolved.

The question of the transfer of Sylhet to Bengal was not raised during the life-time of the first reformed Assam Legislative Council. In the second Council it was brought up by one of the leaders of the Nationalist party in the shape of a resolution which, after being amended so as to recommend the transfer of Cachar as well as of Sylhet, was carried by 22 votes to 18.

3. While the mass of the population of Sylhet are indifferent in the matter, it is probable that the majority of the educated Hindus are in favour of the transfer of the district to Bengal though some important sections, like the Mahisyas, are against it. A protest against the transfer recently made at a public meeting in Sunamganj seems to indicate that at least a section of the numerically small but influential Brahmin community of the Surma Valley is also against the measure. A substantial body, probably the majority, of educated Muhammadan opinion is opposed to it. It is significant that the Council resolution was supported only by Muhammandans who are members of the Nationalist party, whilst it was suported by independent Hindus as well as by Hindu members of the Nationalist party. The Leading Muhammadan Association in the district was opposed to transfer in August 1912: and as recently as August 1924 there was so much difference of opinion between Hindus and Muhammadans on the subject that the Surma Valley Provincial Conference, sitting at Sunamganj in the Sylhet District under the presidency of Mrs. Sarojini Naidu, found it necessary to omit from its agenda (*vide* No. F. 682-24) a resolution advocating re-union with Bengal. The Council resolution as originally moved concerned only Sylhet, and was amended so as to cover Cachar as well at a late stage of the debate. The Government of Assam have no doubt that, as was indicated in the course of the debate, the educated Bengali-speaking Hindus of Cachar while not strongly in favour of absorption in Bengal, would desire to remain in association with Sylhet whether Sylhet continues to be in Assam or is transferred to Bengal; but they have no reliable information as to the wishes of other sections of the people of Cachar. It is clear that both in Sylhet and in Cachar further enquiry will have to be made as to the real wishes of the people before any action is taken in the matter.

4. Even a partial dismemberment of Assam as at present constituted would give rise to many serious difficulties, both administrative and political, and if its area and population were materially curtailed, it is doubtful whether it could retain the status of a Governor's province. The Governor-in-Council does not think it necessary to go into detail at present as he is uncertain whether the Government of India will be prepared to take up any questions of territorial redistribution whilst they are engaged with the larger problems arising out of the working of the reformed constitution; and he would be glad to be informed whether the Government of India would prefer that the matter should be taken up now or that it should be left over for a more convenient season. If the matter is to be taken up now, the first step necessary would seem to be to ascertain the general views of the Government of Bengal before instituting enquiries, which are bound to cause a certain amount of unrest, into the real wishes of the people concerned.

LETTER FROM THE GOVERNMENT OF BENGAL, No. 635-P., DATED THE 15TH JANUARY 1925.

SUBJECT:—*Proposed transfer of Sylhet and Cachar from Assam to Bengal.*

I am directed to refer to the Home Department letter No. F.-682-2-24-Pub., dated the 6th December 1924, in which the Government of India ask for the views of the Government of Bengal on the proposal to transfer the districts of Sylhet and Cachar from Assam to Bengal.

2. In reply, I am to say that upon the material before him the Governor-in-Council is unable to form any final opinion. The Government of Assam is most concerned in the scheme. If Sylhet is included in Bengal, however, it is certain that there will be an agitation to include Manbhum also, and the Government of Bihar and Orissa is therefore also concerned. The basis of the demand is sentiment and the proposal is likely to appeal to educated Hindu opinion in Bengal. It appears from the Assam Government's letter that, if this movement began, it would not stop with Sylhet. Cachar would also desire to be included and a further demand is to be anticipated for the re-union of all Bengali-speaking disricts which would also include Goalpara as well as Manbhum. Moreover, if Sylhet and Cachar were included in Bengal the Lushai Hills would have Bengal as a boundary on three sides, and their inclusion would have to be considered. There is not at the present moment, however, any live demand in Bengal for the transfer of these districts. The Govrenor-in-Council, therefore, would prefer not to raise the question. If it is raised at all it would be primarily essential to examine the financial effect of the scheme, and until this is done the Governor-in-Council cannot commit himself to any final opinion.

FROM THE OFFICIATING CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, APPOINTMENT AND POLITICAL DEPARTMENT, No. 1573-POL.—3860-A. P., DATED THE 11TH AUGUST 1925.

I am directed to refer to the correspondence resting with Mr. Sloan's letter No. F.-81—25-Public, dated the 6th May 1925, and to forward copies of letters from the Commissioner, Surma Valley and Hill Districts Division, and the Deputy Commissioners of Sylhet and Cachar. These show the attempts which have been made to comply with the instructions of the Government of India and to find out the real wishes of the people concerned.

2. To the history of the movement for the re-union of Sylhet with Bengal given in Mr. Botham's letter No. 5585-A. P., dated the 30th October 1924, the Governor-in-Council has nothing to add. Since then, in addition to the definite enquiries which have been made at the request of the Government of India, all the members of this Government have endeavoured in the course of their tours to ascertain the real state of public feeling. The subject has been extensively discussed in the press and on the platform, and unquestionably the bulk of educated Hindu opinion in the Sylhet district favours re-union with Bengal. It is nowhere claimed that material advantages will ensue to the people of Sylhet, and even the argument that Bengal is politically a more advanced province than Assam is now rarely used and has indeed lost much of its force. The desire for re-union is admittedly based on sentiment. The Bengali Hindu of Sylhet feels that he is looked down upon by his brothers in Bengal owing to his being included in a province inhabited by semi-civilised tribes and by the Assamese whom he considers to belong to a lower standard of civilisation than he does, and he feels keenly that he is not appreciated if indeed he is not actively disliked by the Assamese who in his estimation is his inferior. The leading Hindus of the Assam Valley if they do not actively dislike the Hindus of Sylhet at least disown any kinship with them and regard them with certain feelings of jealousy. The fact that the administration of Sylhet is carried on at a loss, a matter which will be discussed presently, gives them an additional reason for desiring that the district of Sylhet should go to Bengal, but it was undoubtedly in the main these feelings of jealously that led the Assam Valley members of the Legislative Council to support the resolution adopted in July 1924.

3. Muhammadan opinion, as the Government of India were informed, is far from being unanimous. So far as the Governor-in-Council has been able to appraise matters, a considerable body of Muhammadan opinion is against the transfer, holding that this would be detrimental to the interests of their community. Certain thoughtful members of the Muhammadan community however already look ahead with some apprehension to the time when a Swaraj Government will be established in Bengal, and feel that when that day comes it is expedient that their community in Bengal should be strengthened by the addition of the Muhammadans of

Sylhet. The opposite opinion is well expressed in the notes by the Hon'ble Mr. Saiyid Muhammad Saadulla, the Minister for Education, which are appended to this letter. Mr. Saadulla speaks with authority for the Muhammadans of the Assam Valley, and voices their apprehension that with the Muhammadans of Sylhet taken away their community in what would be left of the present province of Assam would be so numerically weak and unimportant as to be unable to claim the favourable treatment which it at present receives. It will be observed further that he found considerable support for his views among the Muhammadans of Sylhet.

4. Reference was made in the debate in the Legislative Assembly in January 1925 to the Jaintia Parganas which are temporarily settled, and in your letter under reply you have asked that figures of receipts and expenditure for that area should be shown separately from the rest of the Sylhet district. It is a fact that the Jaintia Parganas are temporarily settled, and it is also a fact that this area formerly belonged to the Jaintia Rajas and originally formed no part of the old district of Sylhet. Moreover, as the letter from Maulvi Sikandar Ali Khandakar shows, there is a considerable feeling in these Parganas against a transfer to Bengal. If it is decided that the district of Sylhet should be transferred to Bengal, the question whether the Jaintia Parganas should remain in Assam will require consideration, but this is a detail which need not be further examined at present.

5. It will be convenient to deal here with the district of Cachar, and I am in the first instance to observe that in all the agitation that has been carried on in the press and on the platform since the resolution was adopted in this Legislative Council, Cachar has practically never been mentioned. The original resolution covered only Sylhet, and Cachar was added purely as an afterthought in order to obtain the votes of the representatives of that district. The Governor-in-Council is in complete agreement with the provisional views of the Government of India, that while there may be something to be said for the transfer of Sylhet, the transfer of Cachar is hardly a practical proposition. His Excellency in Council would further point out that Cachar has always been intimately associated with Assam, to which it gave a Kachari dynasty and in almost every district of which small bodies of its original inhabitants are to be found to this day. The Bengalis now inhabiting the district of Cachar, while forming the majority of the population, are mere settlers there and can hardly claim that they have annexed the district and have a right to demand its transfer to Bengal. Arguments based solely on numerical strength and linguistic affinity if admitted would, at the present rate at which immigration from Mymensingh into several districts of the Assam Valley is going on, entitle the Bengali settlers in these districts after a few years to assert that they were in the majority and that therefore the districts in which they had settled should go to Bengal. To the appreciation of the feeling actually prevalent in the district given in the letter from the Deputy Commissioner

the Governor-in-Council has nothing to add, but one matter must be mentioned. The resolution recommending the transfer of Sylhet and Cachar was carried with the aid of the votes of the members representing the Assam Valley constituencies. The case of Cachar was really not discussed, and, if the Assamese members considered the matter at all, they were so anxious to get rid of Sylhet and the Sylhet is that they were prepared to let Cachar go as well if that was the only way of getting rid of Sylhet. Since then there has been a pronounced change of feeling, and several of the members who supported the resolution now admit that they made a mistake about Cachar. The Governor-in-Council does not think it necessary to discuss the case of Cachar further.

6. Appended to this letter are notes by the two Honourable Ministers, one of whom is a Hindu from the Sylhet district while the other is a Muhammadan from the Assam Valley. The note by the Hon'ble Rai Bahadur Promode Chandra Dutta states the case as forcibly as it could be put by the most devoted supporter of the movement for transfer, and makes claims on the grounds of numbers and linguistic affinity which the Governor-in-Council cannot but regard as extravagant. The other Minister, as has been stated earlier, puts forward the views of the Muhammadans of the Assam Valley and of at least a considerable section of those in the Surma Valley.

7. Annexed is a statement giving, as far as it has been possible to set these forth, receipts and expenditure in the districts of Sylhet and Cachar and in the Jaintia Parganas for three years. The statement even with the explanatory note attached to it is necessarily incomplete and many of the adjustments made are only approximate. No attempt has been made to apportion to the district of Sylhet its correct share of headquarters charges which include the cost of the Government, the Heads of Departments, the Secretariat and the Legislative Council, but this must be considerable. Its share of the provincial contribution to the Central Government is also omitted. It may safely be said that the cost of administering the Sylhet district is considerably in excess of the receipts from that district, and that the annual deficit of over four lakhs of rupees shown in the statement is almost certainly an underestimate.

8. The position as regards Sylhet may, therefore, be summed up as follows. The only reason for severing its fifty years old connection with Assam is the sentimental desire for re-union with Bengal which is felt by a section of the population, numerically small but undoubtedly influential, comprising the bulk of the educated Hindu community and a considerable portion, but probably a minority, of the educated Muhammadans. The masses of the people cannot be said to hold any views one way or the other. It is not pretended that Sylhet will gain any material advantage by the transfer. On the contrary, it is obvious that, as an outlying district of Bengal, it will receive much less liberal treatment and

consideration that it has hitherto received as the most important and populous district of Assam. These considerations have however been clearly put before the Legislative Council and the supporters of the transfer, and they have not been induced thereby to change their views. If the Government of India feel that their wishes should be accepted as representing the views of the majority of that section of the inhabitants of the district which is capable of giving an intelligent opinion, the Governor-in-Council would not feel justified in opposing the transfer, provided always that it could be arranged that what remains of the province of Assam should retain its status as a Governor's province. This aspect of the case, which has been cursorily mentioned in the previous correspondence, now requires more detailed examination.

9. In Mr. Botham's letter No. 5585-A. P., dated the 30th October 1924, is was stated that if the area and population of Assam were materially curtailed, it was doubtful if it could retain its status as a Governor's province. The present area of the province including the hill districts and the controlled frontier tracts and the Manipur State is 77,500 square miles. At the 1921 Census the population of this area, excluding part of the frontier tracts where no census was taken, was 7,990,246. If Sylhet were transferred to Bengal, the area of Assam would be reduced to 72,000 square miles of which the population in 1921 was 5,448,905. In area, therefore, Assam without Sylhet would be little smaller than Bengal or Bihar and Orissa, but it must be admitted that the population would be much below that of any other major province in India. It must however be remembered that the population of the Assam Valley is increasing rapidly owing to the influx of cultivators from Mymensingh, who are rapidly bringing large tracts of jungle and waste land into a high state of cultivation. During the last four years nearly 100,000 acres of waste land have been taken up by men of this class in the Assam Valley, and the population must have been increased in this way by more than a quarter of a million souls.

10. Another important factor is that as Sylhet is a deficit district the province of Assam would on the transfer of Sylhet to Bengal be in a much better position financially than it is at present. It would not merely be relieved of the burden of the Sylhet deficit, but it would probably be possible to abolish one of the existing Commissionerships and also to effect other savings in the cost of administration. Financially therefore the maintenance of the existing system of administration would be a lighter burden on the reduced province of Assam than it is on the existing province. In other respects it would be perfectly feasible to maintain Assam as a major province. The Legislative Council would represent a homogeneous area, while the administration of the hill and the frontier districts as backward tracts would not be affected. The cadres of the various services would have to be slightly reduced, but the time-scale system of pay now generally in force renders this a matter of small consequence, and the attractions of service

in Assam would be increased rather than diminished by the transfer of Sylhet to Bengal.

11. If however it were held that the reduced province of Assam could no longer retain the status of a Governor's province, the only alternatives would be its incorporation in Bengal of its reduction to the status of a Chief Commissionership with presumably a small Legislative Council, acting mainly, apart from legislation, in an advisory capacity, and without Ministers. The Governor-in-Council is strongly opposed to either alternative, which, he is confident, would be received with intense dissatisfaction by the great majority of the inhabitants of the Assam Valley. The loss of Ministers and the curtailment of the political privileges granted under the Reforms would be keenly resented, while as to the other alternative it is hardly necessary to elaborate the objections to doubling the area of the Bengal Presidency and adding to the cares and perplexities of the Bengal Government the charge of the rapidly developing province with an entirely different system of land revenue and the problems, entirely unfamiliar to Bengal, involved in the administration of the Hill and Frontier Tracts. If therefore the Government of India hold that the transfer of Sylhet to Bengal necessitates a change in the status of Assam as a Governor's province, the Governor-in-Council must unhesitatingly oppose the transfer of Sylhet to Bengal. If would be better to leave Assam as it is and to face the discontent of a section of the population of Sylhet than to arouse discontent throughout the Assam Valley. If however Assam without Sylhet were allowed to retain its present political status and privileges, His Excellency in Council would not, as already stated, feel justified in opposing the transfer of Sylhet to Bengal.

My views on this question have been well known to His Excellency the Acting Governor for years. I wish to be in Bengal and that for reasons which His Excellency is well aware of.

Since I became a Member of the Council I began to take interest in all parts of the province and in my budget speech of the second year of the first Reformed Council I advocated that the whole of Assam should go to Bengal and the more I think of the matter the more convinced do I feel that that is the proper course. I shall state my reasons briefly.

The total population of Assam is 7,606,230 according to the Census Report of 1921, of this 3,524,318 are Bengali-speaking and 1,718,712 are Assamese-speaking, the rest 2,363,200 being primitive tribes in different stages of civilisation and speaking a number of languages.

The province is therefore essentially a Bengali-speaking province and if Sylhet is to go why not the rest?

Again, if Sylhet goes, can the claim of Cachar and Goalpara be resisted? If the wishes of the people and racial affinity are any criteria, these two districts have the same claim as Sylhet. His

Excellency Sir John Kerr in his prorogation speech indicated as much (so far as regards Goalpara). The population of Cachar is 527,228, of whom 313,797 are Bengali-speaking. The population of Goalpara is 762,523, of whom 405,710 are Bengali-speaking. If the wishes of the majority are to prevail these districts must go—even Sylhet is not unanimous. Apart from the masses who cannot be expected to understand the issues—there is some difference of opinion even among the educated classes. I do not see on what ground Cachar and Goalpara can be resisted. The question is not whether Cachar and Goalpara ever formed part of Bengal; that is immaterial. The question is, are the inhabitants—the majority—Bengali-speaking? Even the Ahoms are not the original inhabitants of this province.

If Sylhet, Cachar and Goalpara go to Bengal what remains of Assam? Only the five districts of the Assam proper and the Hill districts. Can they form an administration?

Again if Sylhet alone goes over 23 lakhs of the Bengali-speaking people go away—what about the remaining 12 lakhs? The Bengalese who were the predominant people in the province will at once sink down to a very secondary position. As a Bengali I feel for them and would naturally like to take them with us.

Then, again, if the Muhammadans of the Surma Valley or even of Sylhet go away the Muhammadans of the Assam Valley will be in a minority and lose the strong position they now hold. I have spoken to some Muhammadan gentlemen of the Assam Valley and they fully realise the danger.

Then, again, if competition brings out the mettle in men, then the Assamese will suffer for want of people to compete with.

Lakhs of Bengal people are migrating to Assam; the influx will continue as Assam is the natural field for expansion of the surplus population of Bengal. If checked Bengal may retaliate as it will certainly be justified when it becomes autonomous—where will Assam then be?

To me it seems the solution lies in transferring all the plains districts to Bengal. The Hill districts should be administered by the Central Government through the Government of Bengal as an Agency area. This will also relieve the plains districts of the burden of maintaining the Hill districts at their own cost.

I know it is said that Bengal with Assam will be too heavy a charge. That it hardly correct. By transferring the plains districts we merely add a division. Sylhet and Cachar will go with the Chittagong Division which is admittedly too small. The six Assam Valley districts will form a Commissionership. As it is Bengal is too small a charge for a Governor and a Council of four Executive Members.

And we must not forget that Bengal, Bihar and Orissa for years formed a Lieutenant-Governorship.

If Cachar has spoken out its mind—*viz.*, that if Sylhet goes, it must also go—Goalpara is not inactive. It is moving in the matter and is just waiting to see what becomes of Sylhet.

Minus Sylhet, Goalpara will be the only permanently-settled district in the province in the midst of a number of temporarily-settled districts—the danger is not fanciful and Goalpara knows it.

P. C. DUTTA.

The 19th July 1925.

My personal view is that no provincial redistribution should be undertaken now. Opinion, even in Sylhet, is not unanimous and I am told that majority of Moslems there are against the transfer of Sylhet to Bengal.

Although some persons in the Assam Valley seem to think that the transfer of Sylhet to Bengal will be good riddance, in view of its being a deficit district, but a long view of the matter will convince them that it will not be an unmixed blessing. An advanced form of Government, like the present one, will be out of the question, with a province consisting of the Assam Valley alone. Once the principle of linguistic and revenue settlement affinity—two main planks in the present agitation—is conceded, there will be no logic to oppose the transfer of Goalpara as well.

Cachar was an after-thought in the Council at least, and if Cachar goes my opinion is that the Lushai Hills should also go; for otherwise, there will be no way to the Lushai Hills, but through Cachar—a Bengal district. The geographic situation is such that one must follow the other.

Speaking from the communal point of view, the transfer of Sylhet will spell disaster for both the Valley Moslems. For the Assam Valley, the power of numbers will be gone and with it the proportionate share of representation in self-government institutions and services will dwindle to an enormous extent.

Surma Valley Moslems, in Assam, obtained a dominating voice and share on account of their preponderance, but the experience of neighbouring Moslems in Bengal districts shows that they cannot expect such treatment and results, if they go to Bengal.

Recently, the Gauhati Anjuman sought my opinion in this question and I understand that the Jorhat Anjuman has already submitted a representation to Government over the same matter. The view point of these Anjumans is:—

Sylhet should not be transferred. But if the transfer is effected, then the Assam Valley should also be included in Bengal.

While leading the Assam Valley Muhammadan deputation before the late Mr. Montagu and Lord Chelmsford, at the time of the enquiry for Reforms, I said that Sylhet ought not to go over to Bengal, but if in deference to popular opinion, Sylhet is transferred,

then the Assam Valley should also be transferred subjject to the proviso that all the Assam districts are kept intact and the privileges obtained in Assam be continued in Bengal, for the preservation of the Assamese nationality, culture and language, which is quite distinct from that of Bengal.'

I still adhere to that view.

M. SAADULLA.

The 20th July 1925.

Since coming to Sylhet, I have been seen by a large number of persons both Hindus and Moslems and I enquired from most of them what was their real feeling with regard to the transfer of Sylhet to Bengal. I find opinion is sharply divided. Majority of Moslems are against going to Bengal, while majority of educated Hindus are in favour of the proposal. I met a few Moslems from distant Jaintia parganas as well. The English-educated people from there say that they are opposed to provincial redistribution, but two Maulavis said that they have been so long an adjunct to the district of Sylhet, and they do want to remain with Sylhet. In short, they have no pronounced opinion either way.

When opinion in the country is divided, I hold that Government also should oppose the disturbance of the *status quo*, as a very large amount of the public funds, chiefly contributed by the districts of the Province, other than Sylhet, has been sunk in public institutions in Sylhet.

M. SAADULLA.

The 27th July 1925.

LETTER FROM OFFICIATING COMMISSIONER, SURMA VALLEY AND HILL DIVISION, TO THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, No. 237-T., DATED CAMP HAILAKANDI, THE 27TH JUNE 1925.

With reference to your letter No. Pol.-1318-2723-A. P., dated the 30th May 1925, on the subject of the transfer of the districts of Sylhet and Cachar to Bengal, I have the honour to forward copies of reports from the Deputy Commissioners of Sylhet and Cachar, a petition in original from Maulavi Sikandar Ali Khondkar purporting to be on behalf of the people of the Jaintia Parganas and a copy of a resolution passed by the Karimganj branch of the Srihatta Brahman Parisad, upon which I think comment is not necessary.

2. The Deputy Commissioner, Sylhet, is well in touch with the various grades of opinion in his district and I can add little to what he says. I think that it would not be unfair to say that the great bulk (numerically considered) of the people of that district have no " real wishes " at all. If they have any opinion it would

be as the Deputy Commissioner says either that of their landlord or of the latest orator at a village meeting: it would make no difference upon which side of the question the orator was speaking. But as the advocates of a change must necessarily be in the field before the no-changers, the Reunionist got a good start and have certainly made a considerably greater noise than their opponents. The line taken by the local press in connexion with this particular reference, that the matter had been already decided by the representatives of the people and that further enquiries were futile, may indicate an apprehension that the feeling against reunion is growing and likely to become more vocal: but this is at best an inference open to doubt.

3. Among those who have real wishes on the matter I have no doubt of the sincerity or of the vehemence of the wish of many for reunion, but I feel much less certain that they have examined in detail and carefully weighed the many considerations on both sides. Some indications may perhaps be obtained from among the candidates for Sub-Deputy Collectorships, all young men and graduates, who appeared before the last Selection Committee in this Division. The great majority but not all the Hindus were in favour of reunion and the great majority but not all the Muhammadans against it, but very few, especially among the Hindus, could give any reason for their preference, except the sentimental reasons (I do not wish in any way to undervalue them) which are familiar: almost the only material reason put forward by the Hindus was that Bengal was a richer province than Assam, a proposition which would hardly bear examination.

4. The feeling for reunion, and there are very few of the educated Hindus not in sympathy with it, is however none the less strong for not being based on calm reason, and it is certainly fanned by the airs of social superiority which the Bengali of Bengal is apt to give himself. The Bengali of Bengal on the other hand, so far as I have been able to gather from some of them who live in Assam, is by no means anxious to add to the number of the seekers after the loaves and fishes of his own province. In fine, I agree with the estimate of the Deputy Commissioner, Sylhet, in paragraph 5 of his letter. I should not omit to say that while the great bulk of the educated Hindus is strongly in favour of the change, several of the chief old Muhammadan zemindari families are quite bitterly against it.

5. In Cachar the impression I have derived is that while few are zealous for union with Bengal, there is a large majority among the better informed, including both Hindus and Muhammadans, who if Sylhet goes would wish to go too: provided the two districts are not divided I think the majority would prefer to remain as they are.

6. I am fully conscious that the above is a very inadequate compliance with the requirements of the Government of India, but I would suggest that in order to ascertain the "real wishes of

the people" it would be necessary as a preliminary to educate the people for some years in habits of political thought and discussion, and during and after that period to keep eyes and ears open for indications which would serve to check the cruder methods of question and answer. So far as I am aware the question was not a party issue at the last general election and has not been popularly discussed except at meetings at which the balance of opinion was over-poweringly on one side or the other.

LETTER FROM THE DEPUTY COMMISSIONER, SYLHET, TO THE COMMISSIONER, SURMA VALLEY AND HILL DIVISION, No. 5451-R., DATED THE 24TH JUNE 1924.

With compliments,

Reference your memorandum No. 372-73-P., dated the 2nd June 1925, about the transfer of Sylhet to Bengal.

Associations and individuals have been widely consulted; but it is beyond my powers to say what are "the real wishes of the people" of the district. More than 75 per cent. of the people are ordinary agriculturists, whose views it is almost impossible to obtain. In recent years there has been much propaganda on this question and many meetings have been held in the villages. A highly competent observer has informed me that probably 60 or 70 per cent. of the cultivators would give opinions, if asked. The opinions would be those of their landlords or of the latest orator at a village meeting, and the cultivators would be unable to support them with reasons, having no real feelings on the question. I agree with this view, but should not expect so high a percentage to give any opinion at all.

2. With very few exceptions the influential and educated Hindus are strongly in favour of the movement to Bengal. It is unnecessary to go into their reasons; their desire is undoubted. Some of the more cautious ones whose ambition is for Government appointments for their sons and relations are hesitant about the wisdom of taking the plunge but even they desire it on sentimental, if on no other grounds.

3. Educated Muhammadan opinion is more divided. The Anjuman Islamias of Karimganj and Sunamganj are against the transfer, that of Habiganj in favour of it, while the opinion of that of South Sylhet has not been received. There is known to be a division of Muhammadan opinion in that Sub-division. There are two Anjuman Islamias in Sylhet Sadr. One of these is a body which broke away from the parent body on *Khilafat* issue. That has passed a resolution approving the transfer. The other has been unable to hold a meeting. There are sharp divisions of opinion in Sylhet Sadr, the 'Young Party' being generally in favour of the change and the 'Old Party' against it.

4. Such Tea Garden Managers as I have consulted would prefer to remain in Assam.

In brief, I doubt whether 10 per cent. of the population take any real interest in the question at all. Among the educated and vocal part of the population, the majority—perhaps 75 per cent.—are in favour of the change. In my opinion those who wish to go feel more strongly on the question than those who wish to remain, possibly because their propaganda has been better organised.

LETTER FROM THE DEPUTY COMMISSIONER, CACHAR, TO THE COMMISSIONER, SURMA VALLEY AND HILL DIVISION, NO. 1909-G., DATED THE 25TH JUNE 1925.

With compliments,

Reference your memorandum No. 372-73-P., dated the 2nd June 1925.

SUBJECT:—*Proposed transfer of the districts of Sylhet and Cachar to Bengal.*

The time allowed has been very short, and the problem of obtaining the real opinion of the people very difficult. An attempt was made to reach all communities through their recognized or informal associations, but though some views were obtained from the Mahishya (Patni) community in Hailakandi, and the Barmans (Cacharis) in Sadr, the opinion of the Manipuris Namasudras and Naths, not to speak of the nondescript tea garden population, went entirely unvoiced, while the mercantile community submitted only two written statements. These are all imporant communities. There are two questions, whether there is a case for transferring Cachar with Sylhet on its own merit, and whether Cachar should go with Sylhet if the latter goes.

I conceive that failing a true referendum which is impossible in the present stage of political and educational development, the wishes of the people can only be truly gauged from the views of the few enlightened members in each community, together with the reasons alleged for holding such views. The balance of opinion among Bengali-speaking people appears to be probably in favour of going to Bengal, though such feeling as exists is very lukewarm, and there is an element against the proposal. The relative strength of those for and against could I think be determined only from the reasons alleged. The remarkable thing is that only one reason has been alleged to me (though I have heard others from Mr. Chanda), *viz.*, that union with Bengal will enable the Bengali-speaking people to develop on the same lines as their brothers in Bengal. This is not supported by any detailed argument, and some persons actually fear retardation owing to loss of the free middle vernacular education which is given in Assam. It has been freely stated to me that the root cause of the desire for union is that Bengal

families are in the habit of referring to Sylhet and Cachari families as "Assamese," and that this is considered a derogatory term. It is almost as astounding that this attitude of mind should prevail as that it should affect questions of administration, but there can be no doubt that it is the chief influence with those who demand union; I have sought in vain for more tangible evidence of grounds for the belief that union with Bengal would widen the path of progress in the educational or other spheres. It appears, however, that there is some idea current that permanent settlement and a tenant law would result. At present the population outside the towns have no idea as to what union with Bengal would mean, but so far as opinion has been or may be formed, I think these expectations would naturally influence rustics in favour of the proposal. Some landlords are opposed to the transfer simply because their fear of a tenancy law less favourable to them is less strong than their anticipations of benefit from a permanent settlement.

When the question for consideration is whether Cachar should remain in Assam even supposing Sylhet goes to Bengal, the majority of Bengali-speaking people in favour of transfer is much greater, though it is by no means unanimous. Cachar people naturally feel that they will lose their share of the great influence wielded by Bengalis in the province, that they will be an unconsidered minority, and they will not even secure fair treatment at such institutions as the Murarichand College, if they remain in Assam, while they will be debarred from enjoyment of facilities in the Assam Valley by a variety of causes. At present justice is administered by a Judge, Additional Judge and Sub-Judges of Sylhet. It is feared that, as was once held, Cachar would not be able to support a separate Judge, or, in the Civil field, Sub-Judge, and it is strongly felt that loss of the services of the Bengal judicial staff might result from transfer and make the administration of justice more casual.

All other communities who have expressed an opinion (*viz.*, Mahishya, Barman and Planter) are strongly against transfer, while some individuals express indifference. The mercantile leaders consulted are unable to see any advantage in transfer. Arguments are that Cachar would lose the intimate touch with Government due a Commissioner at Silchar and headquarters at Shillong, and would be involved in great expenditure over revenue and other appeals, that the financial needs of the district would be overlooked by a Government at Calcutta, and that the introduction of the Bengal Code would complicate daily life. One employer of labour (Indian) has expressed to me fear of the effects on labour in Assam of an administration conducted from Calcutta.

It is hard to judge the numerical weight of opinion, but I consider that a large majority of the population of Cachar would prefer that both Sylhet and Cachar should remain in the province of Assam. This includes a considerable element of Bengali-speak-

ing people. According to Subsidiary Table II, Chapter IX, of Part I, Census of India, Assam, 1921, Bengali-speaking people are 5,951 per 10,000 of the population. Reckoning the plains portions only however it appears that the percentage is about 62 of the total population. Allowing for an undetermined number of Bengali-speaking people who would wish to remain in any case in Assam, I consider that if it were possible to put the matter to a referendum, only about 10 per cent. would vote unless dragooned into the polling stations, and of these not much more than a bare majority would vote for transfer to Bengal assuming that Sylhet were to go in any case. I doubt if one per cent. have any conception of what results would ensue from the change.

I shall forward copies of opinions recorded, if required, but I do not consider that they will give much further light.

LETTER FROM MAULAVI SIKANDAR ALI KHONDKAR, MEMBER, NORTH SYLHET LOCAL BOARD, FROM JAINTIA, TO THE SECRETARY TO THE GOVERNMENT OF ASSAM (THROUGH THE DEPUTY COMMISSIONER, SYLHET), No. 162, DATED JAINTIAPUR, THE 19TH JUNE 1925.

With due respect and humble submission I beg to lay the following few lines for your kind consideration and favourable orders.

That in no time the people of Jaintia had received any convenience about the incorporation of the district of Sylhet into the Presidency of Bengal. But when the resolution was passed in the Council of Assam that the district of Sylhet should be incorporated into the Presidency of Bengal I travelled through the whole of Jaintia nearly for six months in order to know whether they agree to this resolution or not. But after a hard trouble I came to know that the people of Jaintia are quite unwilling to be incorporated with the Presidency of Bengal. They said that they do not object to join Sylhet with the Presidency of Bengal save and except Jaintia.

I therefore beg most humbly and respectfully on behalf of the people of Jaintia that the Government will kindly incorporate Jaintia into the province of Assam. I further pray that your honour will kindly move this claim of Jaintia people in the Legislative Assembly through the member of Legislative Assembly of Assam Government.

MEMORANDUM BY THE DEPUTY COMMISSIONER, SYLHET, No. 5452-R., DATED SYLHET, THE 24TH JUNE 1925.

Forwarded to the Commisioner, Surma Valley and Hill Division.

MEMORANDUM BY THE OFFICIATING COMMISSIONER, SURMA VALLEY AND HILL DIVISION, DATED SILCHAR, THE 25TH JUNE 1925.

Submitted to the Chief Secretary to the Government of Assam.

LETTER FROM THE PRESIDENT, SRIHATTA BRAHMAN PARISAD, TO THE COMMISSIONER, SURMA VALLEY AND HILL DIVISION, DATED KARIMGANJ, THE 23RD JUNE 1925.

I have the honour to forward herewith a copy of the resolution passed in the meeting of the members of the Karimganj Branch of the Srihatta Brahman Parisad held on the 22nd June 1925.

Translation of the Resolution.

The members of the Srihatta Brahman Parisad comprising the Brahmins residing in Karimganj assembled in a meeting unanimously resolved that—

(1) The opinion expressed by Babu Bharat Chandra Chaudhuri, B.A., BIDYABARIDHI, the present Secretary of the said Parisad, against reunion of Sylhet with Bengal, is his personal opinion which has been given without consulting the members of the Parisad. For this reason this meeting does not support his opinion as being without foundation; and in fact wholly protests against it; moreover this meeting expresses its united opinion for reunion of Sylhet with Bengal.

(2) A copy of this resolution be sent each to the Divisional Commissioner and the Deputy Commissioner of the district, and also to the Secretary of the Brahman Parisad, Secretary of the Sylhet-Bengal Reunion Committee, and to the manager of the local newspaper.

ABHAYA CHARAN BHATTACHARJI, *Mukhteer,*
President.

The 22nd June 1925.

NOTE.

This statement attempts to show receipts and expenditure in the district of Sylhet and Cachar and in the Jaintia Parganas for the years 1921-22, 1922-23, and 1923-24 and the average of three years.

The figures show the actual district receipts and expenditure and such adjustments as can be ascertained with approximate accuracy.

2. No account has been taken in the statement of the following charges of which a share should be debited to each of the two districts. It is impossible to estimate even approximately their appropriate share of these charges.

— 1	— 2	1921-22. 3	1922 23. 4	1923-24. 5	Total. 6	Average. 7
		Trs.	Trs.	Trs.	Trs.	Trs.
Divisional expenditure to be divided among all districts in the Surma Valley and Hill Division.	Commissioner . .	75	77	80	2,32	77
	Inspector of Schools .	17	17	26	60	20
		92	94	1,06	2,92	97
Headquarters expenditure to be divided among all districts of the province.	Governor . . .	2,27	1,84	1,58	...	...
	Members and Ministers.	2,25	2,23	1,92	...	...
	Civil Secretariat .	3,12	2,94	2,84	...	...
	Public Works Department Secretariat.	1,75	1,59	1,64	...	...
		9,39	8,60	7,98	25,97	8,66
	Director of Land Records, etc.	59	62	58	...	...
	Examiner of Local Fund Accounts.	37	38	42	...	...
	Legal Remembrancer .	38	33	34	...	...
	Legislative Bodies .	67	62	60	...	...
	Inspector General of Police (including Criminal Investigating Department).	1,84	1,90	1,72	...	...
	Carried over .	3,85	3,85	3,66	11,36	3,79

—	—	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	7
		Trs.	Trs.	Trs.	Trs.	Trs.
	Brought forward .	3,85	3,85	3,66	11,36	3,79
Headquarters expenditure to be divided among all districts of the province—*contd.*	Secretariat Press .	1,42	1,35	1,15	...	...
	Director of Public Instruction.	59	52	53	...	...
	Inspector General of Civil Hospitals and Inspector General of Prisons.	68	74	71	...	..
	Director of Public Health.	39	41	41	...	...
	Superintendent, Civil Veterinary Department.	37	42	26	...	...
	Director of Industries, etc.	34	39	45	...	...
	Conservator of Forests	80	64		...	...
	Director of Surveys .	29	27	38	...	...
	Cost of "Brahmakund" and "Sonamukhi".	69	63	46	...	...
	Expenditure in England.	5,32	4,44	7,60	...	...
	Contribution to Bengal for the High Court.	95	95	95	...	...
	Cost of forms and stationery.	2,29	3,49	1,39	...	...
	Stamps supplied from Central Stores.	26	26	45	...	...
	Total .	14,39	14,51	15,13	44,03	14,67
	Total headquarters expenditure.	27,63	26,96	26,77	81,36	27,12

3. No account has been taken of interest on capital public works expenditure. This is a fair charge debitable to the districts, but the amount of such interest cannot be easily ascertained.

4. The cost of the construction of the Murarichand College in Sylhet has also been omitted from the statement.

5. The figures given for Sylhet include the revenue and expenditure of the Jaintia Parganas.

The average annual receipts in that area amount to Trs. 3,45. The average expenditure, excluding any share of the charges incurred on account of the district staff of the several departments, is Trs. 66. It is impossible to determine the share of the district headquarters charges which could fairly be assigned to the Jaintia Parganas, and in the absence of such an adjustment the figures given are of little value.

Statement I.—Receipts and Expenditure in Sylhet.

Receipts.						Expenditure.					
Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.	Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	1	2	3	4	5	6
	Trs.	Trs.	Trs.	Trs.	Trs.		Trs.	Trs.	Trs.	Trs.	Trs.
II.—Taxes on Income.	40	14	7	61	...	2.—Taxes on Income .	1	1	2	4	...
V.—Land Revenue	10,73	10,55	11,98	33,26	...	5.—Land Revenue .	1,18	2,05	2,36	5,59	...
VI.—Excise . .	4,68	4,35	4,73	13,76	...	6.—Excise . . .	36	38	32	1,06	...
VII.—Stamp . .	8,09	9,53	9,96	27,58	...	7.—Stamps . .	19	23	23	65	...
VIII.—Forests . .	1,42	1,63	1,86	4,91	...	8.—Forests . .	50	62	61	1,73	...
IX.—Registration .	90	92	1,22	3,04	...	9.—Registration . .	73	80	79	2,32	...
XVI.—Interest . .	25	46	32	1,03	...	22.—General Administration.	4,38	3,96	3,81	12,15	...
XVII.—Administration of Justice.	48	52	60	1,60	...	24.—Administration of Justice.	3,80	3,86	4,07	11,73	...
XVIII.—Jails and Convict Settlements.	36	32	26	94	...	25.—Jails and Convict Settlements.	1,35	1,50	1,40	4,25	...
XIX.—Police . .	3	1,72	2	1,77	...	26.—Police . . .	5,10	6,47	5,38	16,95	...
XXI.—Education .	57	62	72	1,91	...	31.—Education . .	6,29	6,39	6,41	19,09	...

XXIV.—Agriculture .	15	13	16	44	...	33.—Public Health .	74	72	78	2,24	...
XXV.—Industries .	...	...	1	1	...	34.—Agriculture . .	1,25	1,05	91	3,21	...
XXX.—Civil Works .	13	13	14	40	...	35.—Industries . .	3	19	23	45	...
XXXII.—Receipts in aid of Superannuation.	40	49	20	1,09	...	37.—Miscellaneous Departments.	3	4	3	10	...
XXXIV.—Stationery and Printing.	1	1	2	4	...	41.—Civil Works . .	5,73	4,60	4,19	14,52	...
XXXV.—Miscellaneous .	44	7	—17	34	...	45.—Superannuation, etc.	1,39	1,18	1,33	3,90	...
						46.—Stationery and Printing.	...	...	...	...	...
						47.—Miscellaneous .	60	61	50	1,71	...
Total .	29,18	31,71	32,18	93,07	31,02	Total .	35,26	36,24	34,92	1,06,42	35,47
Add—Share of the receipts from income-tax and stamp duty accruing to Assam but paid in Bengal.	...	..	...	...	65	† *Add*—Expenditure incurred on Sylhet students and patients in educational and medical institutions outside Sylhet *minus* expenditure incurred in Sylhet institutions on students of other parts of the Province.	...	...	...	...	51
Grand Total .	29,18	31,71	32,18	93,07	31,67	Grand Total .	35,26	36,24	34,92	1,06,42	35,98

* This figure is approximate only.

† This expenditure has been calculated on the proportion borne by the number of students, etc., to the total cost of the institutions.

Statement II.—Receipts and Expenditure in Cachar.

Receipts.						Expenditure.					
Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.	Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	1	2	3	4	5	6
	Trs.	Trs.	Trs.	Trs.	Trs.		Trs.	Trs.	Trs.	Trs.	Trs.
II.—Taxes on Income.	25	9	22	56	...	2.—Taxes on Income .	...	...	...	...	...
V.—Land Revenue	7,37	7,60	7,80	22,77	...	5.—Land Revenue .	56	86	88	2,30	...
VI.—Excise . .	3,05	2,87	2,87	8,79	...	6.—Excise . . .	21	23	24	68	...
VII.—Stamp . .	1,36	1,50	1,58	4,44	...	7.—Stamps . .	3	4	4	11	...
VIII.—Forests . .	92	1,09	1,09	3,10	...	8.—Forests . .	68	86	73	2,27	...
IX.—Registration .	15	18	22	55	...	9.—Registration . .	16	15	16	47	...
XVI.—Interest . .	7	7	4	18	...	22.—General Administration.	2,44	2,07	1,33	5,84	...
XVII.—Administration of Justice.	9	10	15	34	...	24.—Administration of Justice.	24	24	29	77	...
XVIII.—Jails and Convict Settlements.	2	4	2	8	...	25.—Jails and Convict Settlements.	25	28	28	81	...
XIX.—Police . .	15	15	—6	24	...	26.—Police . . .	1,45	2,04	1,64	5,13	...

XXI.—Education .	7	7	7	21	...	31.—Education . .	1,84	1,79	1,50	5,13	...
XXIII.—Public Health .	2	2	2	6	...	32.—Medical . .	63	76	69	2,08	...
XXIV.—Agriculture .	6	3	2	11	...	33.—Public Health .	29	21	13	63	...
XXV.—Industries .	...	...	...	...	...	34.—Agriculture . .	17	16	16	49	...
XXX.—Civil Works .	8	8	24	40	...	35.—Industries . .	..	...	...	...	...
XXXIII.—Receipts in aid of Superannuation.	13	18	15	46	..	37.—Miscellaneous Departments.	..	..	...	...	...
XXXII.—Stationery and Printing.	..	...	...	...	...	41.—Civil Works . .	2,38	2,02	1,91	6,31	...
XXXV.—Miscellaneous .	8	7	11	26	...	45.—Superannuation, etc.	34	40	37	1,11	...
						47.—Miscellaneous .	54	57	73	1,84	...
Total .	13,87	14,14	14,54	42,55	14,18	Total .	12,21	12,68	11,08	35,97	11,99
Add—Share of the receipts from income tax and stamp duty accruing to Assam but paid in Bengal.	...	...	...	...	30	† *Add*—Expenditure incurred on Cachar students and patients in educational and medical institutions outside Cachar.	...	...	..	...	17
Grand total .	13,87	14,14	14,54	42,55	14,48	Grand Total .	12,21	12,68	11,08	35,97	12,16

* This figure is approximate only.

† This expenditure has been calculated on the proportion borne by the number of students, etc., to the total cost of the institutions.

Statement III.—Receipts and expenditure in the Jaintia Parganas.

Receipts.						Expenditure.					
Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.	Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	1	2	3	4	5	6
	Trs.	Trs.	Trs.	Trs.	Trs.		Trs.	Trs.	Trs.	Trs.	Trs.
Taxes on Income . .	1	2	2	5	..	Taxes on Income . .	..	..	..	..	..
Land Revenue . .	2,88	2,47	3,51	8,86	..	Land Revenue . .	46	48	37	1,31	..
Excise	14	13	15	42	..	Excise	1	1	..	2	..
Stamps	21	15	41	77	..	Stamps . . .	..	..	1	1	..
Forests	3	3	4	10	..	Forests . . .	..	1	1	2	..
Registration . . .	4	3	5	12	..	Registration . . .	5	4	5	14	..
Police	..	..	..	..	..	Police	12	12	12	36	..
Civil Works . . .	1	1	1	3	..	Civil Works . . .	4	5	3	12	..
Total .	3,32	2,84	4,19	10,35	3,45	Total .	68	71	59	1,98	66

TELEGRAM FROM THE GOVERNMENT OF BENGAL, No. 1197-P. D., DATED THE 28TH AUGUST 1925.

Reference your 81-Public, dated 19th August. Proposed transfer of Sylhet. No objection to publication of Bengal Government letter of 15th January or of views expressed in this telegram. Resolution supporting transfer carried in Bengal Council 19th August without division. Arguments limited to idea of union of Bengali-speaking people. Arguments of practical utility absent. Apart from financial considerations, Bengal Government would not oppose transfer and Legislative Council would favour transfer but financial considerations make present consent of Bengal Government impossible on following five grounds:—(1) Legislative Council had no opportunity to consider financial aspect and must have another opportunity with full knowledge of financial implications. (2) Bengal Government think that actual extra cost to Bengal is largely under estimated. (3) Bengal Government not convinced of necessity of exclusion of Jaintia parganas which aggravates financial objection. (4) Bengal Government would claim an aditional assignment at expense of Assam. (5) Bengal Government consider even seven lakhs too high a price to pay to satisfy Bengal sentiment which though admitted is only a reflex of Sylhet sentiment. On August 19th amendment in Legislative Council urging transfer of Cachar as well was lost by eleven votes to two.

LETTER TO THE CHIEF SECRETARY TO THE GOVERNMENT OF $\frac{\text{BENGAL}}{\text{ASSAM}}$, No. F.-81—25, DATED THE 24TH OCTOBER 1925.

I am directed to refer to the correspondence ending with your $\frac{\text{telegram No. 1197-P. C., dated the 28th August 1925}}{\text{letter No. 1573-Pol.—3860-A. P., dated the 11th August 1925}}$ on the proposed transfer of the districts of Sylhet and Cachar from Assam to Bengal. As the Government of $\frac{\text{Bengal}}{\text{Assam}}$ are aware, the further discussion, which was to have taken place during the September session of the Assembly, of the Resolution moved on this subject in January 1925 by Mr. Aney did not mature, and the Resolution was withdrawn on the understanding that a fresh Resolution would be moved during the session beginning in January next. The Hon'ble the Home Member explained that the examination of the proposal had not reached a stage at which discussion in the Assembly would lead to practical results. The Government of India have now completed their preliminary examination of the question, and are of opinion that it is very desirable to come as soon as possible to a decision one way or another on the proposal, and with a view to facilitate the reaching of a final decision they have arrived at conclusions on certain preliminary issues which I am to state for the information of the Governments of Bengal and Assam.

2. In the first place the Government of India consider that the question of the transfer of the district of Cachar from Assam to Bengal need not continue to complicate the main issue of whether the District of Sylhet should be transferred or not. They observe that the original motion in the Assam Council merely recommended the transfer of Sylhet, and that at a late stage an amendment was moved adding Cachar. In the Bengal Council an amendment urging the transfer of Cachar was lost. The Government of India are of opinion that Cachar is an essentially Assam District, and that moreover its transfer to Bengal would mean the isolation of the Lushai Hills District. They consider that no case has been made out for investigating further the proposal regarding Cachar and suggest that this part of the discussion may now be regarded as closed.

3. In connection with the District of Sylhet itself the Government of India have examined the question wheher it is possible to come to a decision regarding the Jaintia parganas with a view to limiting further the range of inquiry. They observe that there are some reasons for suggesting that the people in this area do not perhaps wish to be incorporated with the Presidency of Bengal, and that the parganas historically belong to Assam. In addition, they form a temporarily settled area, whereas the greater part of the remainder of Sylhet is permanently settled. On the other hand, these parganas are now a part of the Sylhet District and if they remain with Assam, they being a surplus area in the district, which as a whole is a deficit district, would increase the average annual deficiency of the revenues as compared with the expenditure of the district from some 4½ lakhs to seven lakhs of rupees. The Government of India consider therefore that the question needs further examination, and that it should be decided according to the most convenient geographical boundary between the two provinces, if it is decided to transfer the Sylhet District to Bengal. In this connection the question of how communications between Cachar and Shillong will be affected, if at all, if Sylhet is transferred to Bengal should also be reported. The Government of Assam are being addressed on the question and their final report submitted to the Government of India I am to request that this question may be further examined and definite views will be communicated to the Government of Bengal in due course.

4. In paragraph 11 of their letter of the 11th August 1925 the Government of Assam raise the question of the future status of Assam if Sylhet is transferred, and suggest that it should be laid down now that if Sylhet is transferred Assam should retain its status as a Governor's Province. The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer. They consider that the future status of Assam is a separate question which must be left an open matter to be decided on the merits after any transfer is made. The

Government of India observe however, that any change in the status of Assam would probably involve an amendment of the Government of India Act, and therefore for some time at any rate Assam would remain a Governor's Province. They are unable to state now whether they would be able to support the continuance of Assam as a Governor's Province after its population has been reduced by some 33 percentum.

5. Lastly, the Government of Bengal in their telegram, dated the 28th August 1925, have raised the question of the financial effect of the proposed transfer. They state they would claim a contribution from the Government of Assam as a set off against the deficit of the Sylhet District. The Government of India are of opinion that, although the Government of Assam will be better off financially after the transfer of the District of Sylhet, after that transfer the district will form part of the Bengal Presidency and there will be no reason why the Government of Assam should pay any contribution on account of it to the Government of Bengal. The Government of India recognise that this possible territorial readjustment has a bearing on the question of the Meston settlement. If at the time when that Settlement was made Sylhet had formed a part of the Bengal Presidency the contribution payable by Bengal would presumably have been fixed lower and that payable by Assam higher than was actually done. As, however, the Government of Bengal, as a temporary measure, make no contribution to the Central Government the Government of India do not consider that this affords any ground for a contribution by the Government of Assam to them. This follows also because section 45A of the Government of India Act contemplates contributions from provincial Governments to the Central Government but not from one provincial Government to another, and any increase of the Assam contribution, which the Government of India do not suggest will take place, could not therefore be accompanied by a corresponding reduction of any contribution received from Bengal.

6. The Government of India trust that these conclusions will clear the ground for a final discussion of the question in the $\frac{\text{Bengal}}{\text{Assam}}$ legislative council. I am to request that this letter may be published with the papers which were distributed to the members of the Indian Legislature (copy enclosed) and that arrangements may be made for the subject to be discussed again in the $\frac{\text{Bengal}}{\text{Assam}}$ legislative council as early as possible after the people concerned have had a sufficient opportunity of studying the papers. The subject will come up for discussion in the Assembly in the session beginning in January next, and I am to request that the final views of the Government of $\frac{\text{Bengal}}{\text{Assam}}$ may be submitted to the Government of India as early as possible after the discussion in the $\frac{\text{Bengal}}{\text{Assam}}$ legislative council which should be arranged to take place on an early date.

LETTER FROM THE GOVERNMENT OF ASSAM, No. POL.-2228-6180-A.P., DATED THE 12TH DECEMBER 1925.

I am directed to refer to the correspondence ending with your telegram No. 81-Public, dated the 9th of December 1925, on the subject of the transfer of Sylhet, and to enclose a statement showing the receipts and expenditure of the district of Sylhet, including the Jaintia Parganas, for the year 1924-25. These figures should be read with the explanatory note which was attached to the statement of receipts and expenditure enclosed with my letter No. 1573-Pol.-3860-A. P., dated the 11th of August 1925, as the figures for 1924-25 have been prepared on the same basis and omit the headquarters, divisional and other expenditure referred to in that note.

2. I am to explain that this Government have been content to furnish actual figures for individual years and have attempted no forecasts as to the future. The later figures however suggest that the average deficit over a series of years will not be so serious as the earlier figures suggested and that in some years there may even be a small profit. It should be remembered however that expenditure in 1923-24 and in 1924-25 was restricted in view of the financial position of the Province. That restriction has now been removed, and there will be a growth of expenditure as well as a growth of revenue. In particular I am to mention that the largest increase in revenue has been under the head " VII—Stamps " due mainly to the increase in duties. With effect from the current year this Government have undertaken to allot for rural water-supply the whole of the estimated increase due to the new duties, and in pursuance of that undertaking they have allotted in the current year the sum of Rs. 1,25,000 to the district of Sylhet. Additional non-recurring grants to local bodies in Sylhet to the extent of Rs. 52,000 have also been allotted this year. A copy of this letter is being forwarded to the Government of Bengal.

Sylhet for 1924-25.

Revenue.		Expenditure.	
Major Heads.	Amount. (Thousand of Rupees.)	Major Heads.	Amount. (Thousand of Rupees.)
II. Taxes on Income .	14	5. Land Revenue. . .	2,13
V. Land Revenue .	12,23	6 Excise	19
VI. Excise . . .	4,58	7. Stamps	26
VII. Stamps. . .	10,42	8. Forest	64
VIII. Forest . . .	1,89	9. Registration . . .	83

Revenue.		Expenditure.	
Major Head.	Amount. (Thousand of Rupees.)	Major Head.	Amount. (Thousand of Rupees.)
IX. Registration . .	1,28	22 General Administration .	3,66
XVI. Interest . .	15	24. Administration of Justice .	4,38
XVII. Administration of Justice.	68	25. Jails and Convict Settlements.	1,19
XVIII. Jails and Convict Settlements.	39	26. Police	5,12
XXI. Education . .	77	31. Education . . .	6,89
XXIII. Public Health .	7	32. Medical	1,08
XXIV. Agriculture . .	27	33. Public Health . . .	1,01
XXV. Industries . .	2	34. Agriculture . . .	76
XXX. Civil Works . .	17	35. Industries . . .	18
XXXIII. Receipts in aid of Superannuation.	3	41. Civil Works . . .	3,70
XXXIV. Stationery and Printing.	1	45. Superannuation, etc. .	1,40
XXXV. Miscellaneous .	30	47. Miscellaneous . . .	52
		Total Expenditure	33,94
Total Revenue .	33,40		
Add—Share of the receipts from Income-tax and Stamp duty accruing to Assam but paid in Bengal.	65	*Add*—Expenditure incurred on Sylhet students and patients in educational and medical institutions outside Sylhet *minus* expenditure incurred in Sylhet institutions on students of other parts of the province.	51
GRAND TOTAL .	34,05	GRAND TOTAL .	34,45

LETTER FROM THE GOVERNMENT OF BENGAL, No. 13523-P., DATED THE 29TH DECEMBER 1925.

I am directed to refer to Home Department letter No. F.-81—25-Public, dated the 24th October 1925, on the subject of the transfer of the district of Sylhet from Assam to Bengal, in paragraph 6 of which it was suggested that the letter together with the papers enclosed therewith might be published and arrangements

made for the subject to be discussed in the local Legislative Council. The Government of India also asked for the final views of this Government after the discussion in Council.

2. I am to say that the letter and its enclosures were circulated to the members of the Bengal Legislative Council and an attempt was made to elicit a real debate by tabling a negative resolution in the Council session which commenced on December 2nd last. The motion was lost by 46 votes to 64 on a division and I am to enclose for your information a copy of the debate which took place.

3. As indicated in the Hon'ble Sir Hugh Stephenson's speech the Governor in Council do not wish to oppose the desire of the Council for the transfer of Sylhet to Bengal as that desire was expressed after the full facts, so far as known to this Government, had been placed before them. It will be observed that on the figures supplied by the Assam Government the annual deficit was estimated by this Government at 7 lakhs. The Government of Assam have now reported on the basis of the figures of 1924-25 that in their view the deficit will not be as great as they had anticipated. These figures are now under examination but I am to say that the result will not affect the decision of this Government indicated above.

GOVERNMENT RESOLUTIONS.

Inclusion of the District of Sylhet in the Presidency of Bengal.

The Hon'ble Sir Hugh Stephenson: I beg to move that this Council recommends to the Government that the Government of India be moved to abstain from taking any measures for the inclusion of the district of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to Bengal.

On the 19th August Babu Akhil Chandra Datta moved a resolution in this Council, which was passed, to the effect that the Government of India be informed that the Council was in favour of the inclusion of the district of Sylhet in the Presidency of Bengal. On that occasion I explained the attitude of Government. We were entirely sympathetic to the sentiment behind this resolution but then we wished to examine further what the resolution actually would mean if carried out and we felt that we had not before us at that time the data for examining the questions. I therefore expressed the intention of Government of abstaining from voting if the matter came to a division. Now, Sir, I do not want the Council to think from the form of my resolution that Government have in any way altered their views. The form is in a negative form mainly because an affirmative form would obviously not elicit any real debate, and what the Government of India wished to have is the reasoned opinion of this Council before they decided the question. We want to be quite sure that the Council, whatever vote they give, are not merely expressing a

pious wish but are definitely undertaking a real responsibility. We now have the figures supplied by the Assam Government and we have published all the papers and doubtless the members of the Council have studied them. There is no reason to suppose that the Assam figures are weighted in either direction, nor is there any reason to suppose that the Assam Government are interested in maikng the deficit bigger than it really is, or, on the other hand, that they are concealing any deficit. We must, so far as this Government is concerned, take the figures as given to us by the Assam Government. We have no other materials, and we must subject these figures to such examination on general principles as we can. Now the Assam Government figures show a deficit of Rs. 4,31,000 in the district of Sylhet: that is to say, the actual expenditure on the administration of Sylhet is Rs. 4,31,000 more than the revenues derived in that district. These figures do not include overhead charges of any kind: they are merely district charges. Now we have examined these figures with the help of our Finance Department and we have gone on the principle that where there has been a continuous rise or a continuous fall either in the receipts or the expenditure, the last year's figure is taken, as that obviously is the more correct, and where the figures are more or less constant we have taken the average. Working on this principle will, I think, be regarded by the Council as reasonable. The deficit according to us is slightly higher than that given by the Assam Government and I am prepared to give the reasons for this to anybody who desires to have them. We make out that the deficit will actually be Rs. 4,62,000. Whether the deficit will be Rs. 4,62,000 or Rs. 4,31,000 according to the Assam Government, the difference is small. But there are certain other figures which are not included in the Assam Government figures which we are bound to take into consideration in this connection. In the first place, the Assam Government figures were for the year 1923-24 that is up to he 31st March 1924. Therefore it leaves out of account entirely the increased expenditure due to the recommendations of the Lee Commission, as they did not come into force till 1st April 1924. The same remark applies to certain readjustments in the matter of the Railway Police charges. The Assam Government figures also leave out the leave and superannuation charges paid in England on account of officers employed in the Sylhet district. Further, the Assam Government now pays us Rs. 90,000 as contribution towards the cost of the High Court. I understand that the bulk of the work that comes from Assam to the High Court comes from the Sylhet district, and therefore I think the Assam Government will, if the distrct of Sylhet is transferred, come up to us with a claim that the amount should be reduced possibly by at least half. Then there are certain other small increases in expenditure which should be taken into account, namely the charges on account of the Legislative Council, extra printing charges and possibly overhead charges. The addition of a large district like Sylhet may necessitate slight increases in the establishment in the various offices such as the Legal Remembrancer's office and other offices.

Well, adding these to the other established deficit, our Finance Department is of opinion that the actual deficit on account of the transfer of Sylhet will not be far short of Rs. 6 lakhs.

Then there is another point. The Assam Government figures of a deficit of Rs. 4,31,000 besides leaving out those various charges that I have just enumerated include the revenue and expenses of the Jaintia Parganas. Now the Government of India in their letter, which has been published, have said very definitely that the question of the transfer of the Jaintia Parganas must be decided not on any consideration of whether we want Sylhet or not but on the sole consideration of what is the most convenient geographical boundary. I do not know the country myself but I am informed that there is very little chance of the Jaintia Parganas being transferred with Sylhet. That of course I can only say comes to me from people who do know that particular part of the country and who say that given that criterion the Jaintia Parganas will not be transferred. I think, therefore, that in considering this question we have at all events to reckon on the possibility (I will even say probability) of our not enjoying the surplus of the Jaintia Parganas. The surplus from the Jaintia Parganas is Rs. 2,79,000. We must therefore add Rs. 2,79,000 to the deficit of the Sylhet district. Now, if we take over Sylhet district and do not get the Jaintia Parganas the deficit according to our figures will amount to something over Rs. 8½ lakhs. These are the figures of the Assam Government, they are not the Bengal Government figures but they are based on the records of the Assam Government which are administering the district for the time being. These figures of the Assam Government have been impugned in a letter from Mr. Chanda which has been very widely circulated and published in the press. I have had the advantage of a long discussion with Mr. Chanda in company with the Finance Member and we have with him examined all the figures. We examined all the figures he has given us and told him how we got at our figures and we have listened to anything he had to say to show that any of those figures are wrong. I think I am not doing him any injustice when I say that he could not show that any of our figures are wrong. He said that the Assam Government figures must have omitted something. We went into his figures in his published letter and we examined them one by one and I am afraid that Mr. Chanda is asking us to base more on hope than it can possibly carry.

There is nothing in Mr. Chanda's figures which really challenges the Assam Government figures except the statement that next year owing to the resettlement of the Ilam there will be an increase of Rs. 1,25,000 in land revenue. I don't know whether these are official figures which Mr. Canda cited and I don't know how much of these estates that will be resettled are in the Jaintia Parganas and how much lie in the original district of Sylhet. But giving Mr. Chanda full credit for that and for any economy that may be possible owing to the Jaintia Parganas not coming over we still have a deficit of something like Rs. 7 lakhs.

Now I want to emphasize the fact that it is not the object of this Government to make out a case against the taking over of Sylhet. So far as the taking over of Sylhet is concerned we have no objection. There will be, as far as I can see, no administrative difficulty and no administrative inconvenience; on the other hand I understand from Mr. Chanda that there will be no administrative advantage but there will be sentimental advantage and social advantage. Now all we want is that the Council shall realize what the exact consequence of taking over the Sylhet district is. The Government of India have definitely said that we cannot hope for any assignment or any readjustment of revenue either from themselves or from Assam if we take over Sylhet. Therefore, the position is that if we take over Sylhet we have the recurring deficit of Rs. 7 lakhs. It is no use trying to deceive ourselves by saying that we will find the Rs. 7 lakhs by economy elsewhere; we know we shan't; we know what it actually means is that, taking an optimistic view, for two years we shall have to hold up all further schems for increased recurring expenditure in this province. It is being urged that we should not decide a question of this kind by mere sordid financial considerations and the advocates of taking over Sylhet say should we reject a district that is now in Bengal if we found it could not pay. My answer to that is that the onus is on those who wish to alter the *status quo*. Sylhet has been in Assam since 1874 and if we want to alter that position then I only wish the Council to note the exact consequence of it and what exactly is the price they will have to pay for it. If after full consideration the Council decide that the price is worth paying then their decision with the debate will be forwarded to the Government of India with whom the final decision rests and this Government will put no further obstacles in the way, but I do ask the Council not to decide this merely on the ground of sentiment. I do not wish to say a word against the proper weight that sentiment ought to have in matters of this kind but what I want is that the Council should understand that this is not merely expressing a wish, a pious hope, that Sylhet will come over, it is a definite undertaking of the responsibility to meet 7 lakhs of ruppes a year in order to take over Sylhet; and do not let us deceive ourselves with the hope that we may scramble out of this. Mr. Chanda in talking it over suggested that we must first decide to take over Sylhet and then discuss the question of what the deficit is and how we are going to meet it. If it turns out that we can eventually reduce this deficit well and good but I want the Council to come to a decision as to whether they are prepared to take over Sylhet with the full knowledge that in all probability we shall have to meet this deficit of Rs. 7 lakhs.

Babu Akhil Chandra Datta: The ground that is now urged against the reunion of Sylhet with Bengal is the financial deficit of the district. Speaking for myself I must admit that I am labouring under a great disadvantage as regards the figures for we have no information of our own regarding them especially those furnished by the Government of Assam. Let us however examine

them as to how far they are reliable. We are told that according to the Assam Government's figures the deficit is Rs. 4 lakhs and odd. When this matter was being discussed in the Assembly at Delhi the Assam Government's representative stated that the de-deficit was only Rs. 1 lakh. That is, Sir, the Assam Government's first version—Rs. 1 lakh, and not Rs. 4 lakhs, or, for the matter of that, Rs. 7 lakhs. The Assam Government supplied Mr. Chanda with a statement on the strength of which Mr. Cosgrave made that assertion in the Assembly. I must admit that after that a second revised statement was supplied by the Assam Government in which it was said that the annual deficit was Rs. 4 lakhs and odd. Now the question arises as to how this figure of Rs. 4 lakhs was arrived at. We are told that the average has been taken of some years. We are told that the deficit of the Sylhet district for 1921-22 was Rs. 6 lakhs, in 1922-23 Rs. 4½ lakhs: in 1923-24 Rs. 2,74,000. I would invite the attention of the Council here, Sir, to two things. In the first place, the deficit is gradually decreasing. Now, Sir, when the deficit is gradually decreasing from year to year is it fair to take the average from that? In the second place the deficit for 1923-24 is Rs. 2,74,000 as I have said but we have not been supplied with the figures for 1924-25. This is one side of the shield: now let us turn to the other side. We know that in Sylhet there is any amount of land temporarily settled. All lands are not permanently settled in Sylhet and the Ilam settlement is going to take place very soon which Mr. Chanda's note tells us will give a revenue of about Rs. 1,25,000. I am not sure of the figure. The fact that the revenue will be uniformly and progressively expanding has been, I am afraid, wholly overlooked in considering the figures.

Then we find there is a pargana in Sylhet called Mantala. For reasons which I do not know the revenue of that pargana, although the land is in Sylhet, is paid in Bengal. The Assam figures do not include this amount of Rs. 52,000; the Assam figures also do not include another figure, namely, about Rs. 65,000, the share of receipts from income-tax and stamp duty accruing to Assam but paid in Bengal. The share of Sylhet in that is Rs. 51,000. I shall not take the Council through the details of these figures. All these details are known to the Hon'ble Member as he has admitted that he has discussed the matter with Mr. Chanda, and he has been furnished with Mr. Chanda's statement. We find, therefore, that on account of these two items the revenue is not credited to Sylhet, and owing to certain increase that is expected, we have got to increase the revenue by Rs. 1,75,000.

Then there is another item, stamps for instance. On account of the amending Act passed in 1922 increasing the stamp duty, there will be a saving of Rs. 84,000 under this head if Sylhet comes to Bengal, that being the amount paid to Assam out of the Sylhet revenue.

Taking all these facts into consideration, Mr. Chanda has shown that instead of a deficit, there will really be a surplus of Rs. 39,000. These figures were supplied to the Assam Govern

ment by Mr. Chanda and they were asked to challenge them. In reply Mr. Chanda was told by the Chief Secretary to the Assam Government that the figures were being examined by the Assam Government. They could not say that the figures were incorrect; they only replied that the figures were being examined. Since then, up till now, I have been told by Mr. Chanda that the Assam Government has not said that these figures are incorrect.

A further objection has been raised here that there will be a rise in expenditure on account of the Lee Commission's recommendations. I should not like to say much on this point, but I really fail to see how the increased prospects of the members of the Civil and other services are to stand in the way of the transfer of Sylhet to Bengal.

Then about Jaintia Pargana, it has been said that geographically the transfer is undesirable. On this point, I have got a memorial here submitted to the Viceroy by the people of that pargana. In that memorial they say that geographically the pargana constitutes a component part of Sylhet——.

Mr. President: Order, order. Your reference to the Jaintia is a little out of order; does it arise out of the resolution?

Babu Akhil Chandra Datta: One of the arguments raised by the mover is that if Jaintia is not transferred, then the deficit will be larger because in Jaintia there is a surplus; and the argument has been advanced that there is no possibility of Jaintia being transferred to Bengal, as geographically Jaintia could not come to Bengal. That was his argument.

Of course, it has been very candidly admitted by the Hon'ble Mover that he does not know much of Jaintia, and therefore if he will allow me, I will tell him what is the opinion of the Jaintia people themselves. They say that geographically Jaintia is a part of Sylhet and not a part of the rest of Assam, and we must remember that there is a surplus of Rs. 2 lakhs there.

Then, Sir, on the question of deficit it is a mere drop in the ocean; a deficit of Rs. 8 lakhs according to the figures of the Bengal Government, a deficit of Rs. 4 lakhs according to the second statement of the Assam Government, and a deficit of only Rs. 1 lakh according to the original statement of the Assam Government, is, I say, a mere drop in the ocean.

One word about these figures; we cannot possibly rely too much on these figures. I do not mean to suggest that they are dishonest figures, but what appears to me is that there are so many figures from so many quarters on this particular matter, that it is quite clear that Government themselves do not know what the correct figures really are.

The matter has been discussed in the Legislative Assembly and Mr. Cosgrave gave the first figures supplied by the Assam Government which gave a deficit of only Rs. 1 lakh. On another occasion the Assam Government says the deficit was Rs. 4 lakhs; all I can say is that too much reliance cannot be placed on these

figures. Even supposing that these figures are absolutely reliable, I still say that they are a mere drop in the ocean. We know how lakhs and lakhs are squandered here and there and everywhere and a deficit of Rs. 1 lakh or Rs. 4 lakhs ought not to stand in the way of this transfer.

We must remember that Sylhet was originally a part of Bengal; was it in a state of deficit at the time it was taken over by Assam? *Prima facie*, there is no reason why Sylhet ought to be a deficit district. We have not been told that there is anything extraordinary or unusual in Sylhet which should make it a deficit district. On the other hand, we know that there are temporarily settled estates in Sylhet, and there are periodical settlements with the result that there is a rise in revenue. There must be something wrong somewhere in the position of the Assam Government regarding the figures.

Lastly, it has been said that if anybody wants to retransfer Sylhet to Bengal the onus will be upon him. I should put it like this. We are not asking for anything new, we are asking only for the restoration of the *status quo*, and if anybody opposes that, the onus is on that party.

I am only asking this Council and the people of Bengal not to perpetuate the injustice that has been done to Sylhet by separating it from Bengal.

At this stage the Council was adjourned for ten minutes.

After the adjournment.

Mr. W. L. Travers: I should hesitate ordinarily to intervene in a debate of this description where sentiment is so much associated, were it not for two facts: first of all regarding myself, I have recently been able to make personal investigation and have talked to many gentlemen domiciled in Sylhet on this matter, and secondly in regard to the financial state of the question which has been adduced by the Hon'ble Member. First of all, I took the opinion of the educated Hindus upon this question of the transfer of Sylhet to this province. I found in talking to many Sylhet gentlemen that although it is true that there are a very considerable majority of their community in favour of it, yet there are a large number of Hindu genlemen who object to this transfer——.

Babu Akhil Chandra Dutta: On a point of order. We are not concerned with other reasons; the resolution is concerned with one ground only, namely, the financial deficit.

Mr. President: Mr. Travers, you should confine your remarks to the terms of the resolution itself. The resolution is that objection be taken against the inclusion of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to Bengal, and not on other grounds.

Mr. W. L. Travers: Do I understand that we are discussing only the financial aspect?

Mr. President: That is so.

Mr. W. L. Travers: Very well, to refer only to the financial aspect, the question is who will be most greatly affected by this change in the long run. Surely there is only one reply to that, it will only affect the raiyats, the cultivators both in this province and in Sylhet. In this province we know that to a great extent owing to lack of education we cannot obtain the opinion of a large majority of the people of Bengal. If they were able to express their opinion, would they say "transfer Sylhet," or would they say "we should like the sum of Rs. 7 lakhs to be spent in furthering the betterment of water-supply or the social condition of the people". Secondly, to look at it from the financial point of view of the raiyats in Sylhet alone, I am of opinion that in the smaller province of Assam the raiyats of Sylhet will obtain a lower taxation and owing to the smallness of the province, a greater attention from the Government of Assam than in this province. I am of opinion that for the present at any rate it would be wise for this Council to delay this matter until education is far more advanced so that we can obtain the real opinion of the people in the matter.

Maulvi Md. Nurul Huq Chaudhury: I am not concerned with the financial aspect of Sylhet, whether it is a deficit district or it is a growing district. I am much more concerned with the community which I represent myself, I mean the Mussalman community of Bengal. At the present moment, if Sylhet comes back to Bengal, the proportion of Muhammadans in Bengal——.

Mr. President: Order, order. You must confine yourself to the terms of the original motion. The motion deals with the objection to the inclusion of the district of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to Bengal. You must confine your remarks to the financial aspect of the question.

Maulvi Md. Nurul Huq Chaudhury: I am not going to speak about the financial aspect.

Dr. H. W. B. Moreno: I should like to oppose the resolution of the Government as moved by the Hon'ble Member. After hearing the speeches of the Hon'ble Sir Hugh Stephension and Babu Akhil Chandra Datta, I am driven to the conclusion that the old resolution, which the Council passed in August last, should stand. We have heard the Hon'ble Member in charge, who quotes to us certain figures; those figures have been openly disputed by the other side. An old wit has said that there are three things: first lies, next black lies and lastly statistics. I do not place much value on statistics, because statistics usually are a mere juggling with figures. If it be only the financial aspect which stands in the way, then I think very little has been said

on behalf of the Government against the transfer of Sylhet to Bengal. It was originally in Bengal and unless and until it can be proved then there will be a serious financial loss to the province as a whole, the old resolution of the Council should stand. The Government are anxious to spend several crores of rupees for putting a few rods of iron across the Hooghly, but they fight shy of including Sylhet in Bengal for fear of the loss of a few lakhs. Their attitude seems to be that of straining at a gnat while swallowing a camel. I submit, Sir, that no strong case has been made out against the transfer so far as financial considerations are concerned, hence I am opposed to the resolution framed by the Government.

The Hon'ble Sir Hugh Stephenson: I had no wish in framing this resolution to exclude any general discussion which any member might have wished on this matter and I may point out that it is Babu Akhil Chandra Datta who has objected to the discussion of the matter on other than financial grounds only. Well, Sir, there has not been, I think, anything in the debate, since I spoke last, which really alters my position. The last speaker displayed a financial insouciance which is exactly what I do not want the House to follow. Turning to Babu Akhil Chandra Datta's argument, he said that at Delhi the Assam representative placed the deficit at Rs. 1 lakh and now the Assam Government are placing it at Rs. 4 lakhs and that, therefore, the Assam figures are unreliable. Well, Sir, at that time it was known generally to the Assam Government that Sylhet was a deficit district, since then they have gone into actual figures and now they have given us the actual figures of deficit. Then, Sir, Babu Akhil Chandra Datta has practically admitted that he does not understand the figures and so far as I can see the whole of his speech—is merely a repetition of Mr. Chanda's letter and in the long run it amounts to exactly the same thing as Mr. Chanda's argument, namely, let us trust to Providence to help us and wait for something to turn up. The main argument of Babu Akhil Chandra Datta is that three years ago the deficit was Rs. 6 lakhs, two years ago Rs. 4 lakhs and last year it was Rs. 2 lakhs, and that therefore this year it must be *nil*. But I would ask the Council whether that sort of argument is the sort of thing which the Council ought to accept when they are coming to a serious decision. It is, as I have said, placing more on hope than it is normally able to carry. We have got the actual figures taken from the Government accounts, and I submit there is no reason to suppose that the figures we have received are incorrect. I think in deciding whether we are going to take over Sylhet or not, we should proceed on the basis of the information before us as to what it is going to cost us. Then, Sir, Babu Akhil Chandra Datta has alluded to the rise in receipts last year; this is an example of certain pitfalls which we must guard against: the last year's figures which show a considerable increase of revenue under "Land revenue" include considerable arrear collection which was responsible for an increase of something over Rs. 1 lakh. Then Babu

Akhil Chandra Datta claimed something like Rs. 50,000 revenue which ought to have been paid in Sylhet, but which was paid in Bengal, that is beside the point, it will not mean any extra receipts if we take over Sylhet; whether the money is rightly paid in Bengal or not, we have got it and it will not be an additional receipt; all we can say is that if we don't take over Sylhet, they might possibly set up a claim that we should pay to them that amount instead. In any case it does not affect the deficit. Then, Sir, he goes on with Mr. Chanda's letter and alludes to expected receipts on account of income-tax earned in Sylhet but paid in Bengal. Well, Sir, we receive a certain share of the income-tax collected by the Government of India and that share is limited to a certain percentage on the collection over the standard figure. And if we take over Sylhet we shall not get one pice from the Government of India. The whole of the income of Sylhet will go to the Government of India and owing to the fact that————.

Dr. Bidhan Chandra Roy: May I ask the Hon'ble Member if the standard figure is fixed or based on percentage?

The Hon'ble Mr. J. Donald: The standard figure at the present moment is based on the figures of 1920-21 and the Government of India get the income-tax on that standard figure; and if there is anything over the standard figure we get a certain percentage of that.

The Hon'ble Sir Hugh Stephenson: Then it is said that we will get about Rs. 84,000 from the stamp duty if Sylhet is taken over, but if you read Mr. Chanda's letter you will find that the stamp revenue is earmarked for a special purpose, namely, water-supply, and for this purpose Rs. 1,36,000 has been allotted to Sylhet. I can find no trace of this payment in the figures submitted by the Government of Assam. If then we take over Sylhet, and if we have to give a definite promise to give this Rs. 1,36,000 to Sylhet, then the deficit must be increased by this amount. Then, Sir, Babu Akhil Chandra Datta asks why should there be a deficit at all? But as a matter of fact it is a deficit district and we are asked whether we are prepared to pay some Rs. 7 lakhs for the purpose of taking it over and I do ask the Council not to decide anything without full consideration of what it means. If the Council think that it is worth while, by all means let the change take place. But do not vote in favour of taking it over in the hope that afterwards some arrangement may be made to get rid of the deficit. My whole object has been to give the Council certain facts to enable it to come to a reasoned decision on the point—are we prepared to take over the Sylhet district at a considerable cost to us, and if we are, I have nothing more to say.

Dr. Bidhan Chandra Roy: May I enquire of the Hon'ble Member whether Sylhet was a deficit district in 1879?

The Hon'ble Sir Hugh Stephenson: That I cannot possibly say.

The motion was then put and a division taken with the following result:—

Ayes.

ABBOTT, Mr. E. G.
ADDAMS-WILLIAMS, Mr. C.
ADDY, Babu AMULYA DHONE.
AHMED, Maulvi TAYEBUDDIN.
AHSANULLAH, Mollah.
ALEY, Khan Bahadur S. MAHBOOB.
ALI, Maulvi SAYYED SULTAN.
BIRLEY, Mr. L.
BROWNE, Mr. P. H.
CAMPBELL, Mr. K.
CHARTRES, Mr. C. B.
CHAUDHURI, Nawab Bahadur SAIYID NAWAB ALI, Khan Bahadur.
COHEN, Mr. D. J.
DAS, Babu CHARU CHANDRA.
DE, Mr. K. C.
DEY, Mr. G. G.
DONALD, the Hon'ble Mr. J.
EDDIS, Mr. B. E. G.
FORRESTER, Mr. J. CAMPBELL.
GHUZNAVI, Haji Mr. A. K. ABU AHMED KHAN.
GOODE, Mr. S. W.
HAQ, Khan Bahadur KAZI ZAHIRUL.
HEARD, Major-General RICHARD.
HOPKINS, Mr. W. S.
HOSSAIN, Khan Bahadur Maulvi MUSHARRUF.
HUQ, Maulvi EKRAMUL.
JAMES, Mr. F. E.
JENNAWAY, Mr. J. H.
LAL MAHAMMED, Haji.
LAW, Raja RESHEE CASE.
LIDDELL, Mr. H. C.
LINDSAY, Mr. J. H.
MASIH, Mr. SYED M.
OATEN, Mr. E. F.
PAHLOWAN, Maulvi MD. ABDUL JUBBAR.
PARROTT, Mr. P.
RAHIM, the Hon'ble Sir ABD-UR-.
RAHMAN, Mr. A. F.
RAY, the Hon'ble Maharaja Bahadur KSHAUNISH CHANDRA.
ROY, Mr. S. N.
SALAM, Khan Bahadur Maulvi ABDUS.
SARKAR, Maulvi ALLAH BUKSH.
SNAITH, Mr. J. F.
STEPHENSON, the Hon'ble Sir HUGH.
TRAVERS, Mr. W. L.
WOODHEAD, Mr. J. A.

Noes.

AHAMAD, Maulvi ASIMUDDIN.
AHMED, Maulvi NAJMUDDIN.
AHMED, Maulvi ZANNOOR.
BAGCHI, Babu ROMES CHANDRA.
BANERJEA, Dr. PRAMATHANATH.
BANERJEE, Babu SATYA KISHORE.
BARMA, Rai SAHIB PANCHANAN.
BASU, Babu JATINDRA NATH.
BASU, Babu SARAT CHANDRA.
BOSE, Babu BEJOY KRISHNA.
CHAKRAVARTI, Babu JOGINDRA CHANDRA.
CHAKRAVARTI, Mr. BYOMKES.
CHAKRAVORTY, Babu SUDARSAN.
CHATTERJEE, Babu UMES CHANDRA.
CHAUDHURI, Maulvi SAIYED ABDUR ROB.
CHAUDHURI, RAI HARENDRANATH.

CHAUDHURY, Maulvi MD. NURUL HUQ.
CHUNDER, Mr. NIRMAL CHANDRA.
DAS, Dr. MOHINI MOHAN.
DAS GUPTA, Dr. J. M.
DATTA, Babu AKHIL CHANDRA.
DEY, Babu BORODA PROSAD.
DOSS, Rai Bahadur PYARI LAL.
GAFUR, Maulvi ABDUL.
GANGULI, Babu KHAGENDRA NATH.
GOENKA, Rai Bahadur BADRIDAS.
GUHA, Mr. P. N.
HALDAR, Mr. S. N.
HAQ, SHAH SYED EMDADUL.
HUQ, Mr. MAHBUBUL.
JOARDAR, Maulvi AFTAB HOSSAIN.
KHAN, Babu DEBENDRA LAL.
KHAN, Maulvi AMANAT.
KHAN, Maulvi MAHI UDDIN.
MAHAMMAD, Maulvi BASAR.
MAITY, Babu MAHENDRA NATH.
MITRA, Babu JOGENDRA NATH.
MITTER, Sir PROVASH CHUNDER.
MORENO, Dr. H. W. B.
MUKHERJEA, Babu TARAKNATH.
NASKER, Babu HEM CHANDRA.
NEOGI, Babu MANMOHON.
QUADER, Maulvi ABDUL.
RAIKAT, Mr. PRASANNA DEB.
RAY, Babu ABANISH CHANDRA.
RAY, Babu NAGENDRA NARAYAN.
RAY, Babu SURENDRA NATH.
RAY, Chaudhuri, RAJA MANMATHA NATH.
ROY, Babu MANMATHA NATH.
ROY, Babu SATCOWRIPATI.
ROY, Dr. BIDHAN CHANDRA.
ROY, Mr. D. N.
ROY, Mr. KIRAN SANKAR.
ROY, Mr. TARIT BHUSAN.
ROY, RAJA MANILOLL SINGH.
ROY CHOUDHURI, Rai Bahadur SATYENDRA NATH.
SARKAR, Babu HEMANTA KUMAR.
SARKER, Babu NALINIRANJAN.
SASMAL, Mr. B. N.
SEN, Mr. N. C.
SEN GUPTA, Mr. J. M.
SINGHA, Mr. ARUN CHANDRA.
TARAFDAR, Maulvi RAJIB UDDIN.
YASIN, Maulvi MUHAMMAD.

The Ayes being 46 and the Noes 64, the motion was lost.

LETTER FROM THE GOVERNMENT OF ASSAM, No. POL.-69—237-A. P., DATED THE 13TH-15TH JANUARY 1926.

SUBJECT:—*Proposed transfer of the district of Sylhet from Assam to Bengal.*

I am directed to refer to the correspondence ending with your telegram No. 81-Public, dated the 8th January 1926, on the above subject, and to submit the report called for in your letter No. F.-81—25-Public, dated the 24th of October 1925. A special session of the Assam Legislative Council was held on the 6th and 7th of January 1926, to reconsider the question of the transfer of Sylhet, and I am now to submit 300 copies of the proceedings for the use of the Government of India.

2. The following two Resolutions which were moved by Rai Bahadur Sadananda Dowera, an Assam Valley member, were adopted by the Council, the first by a majority of 26 votes to 12 and the second unanimously:—

(*a*) This Council recommends to the Governor in Council that the District of Sylhet be transferred to Bengal.

(*b*) While it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces.

The majority in favour of the first Resolution, on which the official members did not vote, consisted of all the Sylhet members with the exception of two, all the Assam Valley Indian members with the exception of three Muhammadans, and four of the five European members of the Assam Valley. The minority consisted of two Muhammadan members from Sylhet, three Muhammadan members from Assam Velley, including the Honourable Minister for Education, one Muhammadan and two Hindu members from Cachar, the member for the Shillong (general urban) constituency and three European members. The two Sylhet members opposed the Resolution on the ground that Sylhet would materialy suffer from the transfer to Bengal. The three Cachar members held the view that Sylhet should not be allowed to go unless Cachar was transferred with it. The remaining members who voted with the minority were actuated mainly by the fear that the status of Assam as a Governor's province would not be maintained if Sylhet were transferred. The Muhammadan members of the minority were further influenced by the fact that their community would be greatly weakened by the transfer of Sylhet with its large Muhammadan population.

3. Within the last few months opposition to the transfer has been growing among the Muhammadans of Sylhet, and certain members of that community asked for an interview with His Excellency the Viceroy to represent their case to him. It is possible that if the final consideration of the question had been further postponed, the opposition would have grown in strength. Some Hindus of Sylhet are not quite so confident of the wisdom of the transfer as they were, but they are too far committed now to withdraw. There can be no doubt, however, that the vote of the Council represents the views now held by the large majority of those who have any views at all on the subject, both in the district of Sylhet and in the province generally. The members from the Assam Valley who voted with the majority are influenced by two motives. The desire to let Sylhet realise what they consider to be a natural aspiration and at the same time they are anxious to be rid of Sylhet in order that the inter-valley rivalry,

which they feel to be a bar to the progress of the province, may cease.

4. As regards the Jaintia Parganas, the Government of Assam have ascertained that the people of that area almost without exception desire to remain with Sylhet whether Sylhet goes to Bengal or remains in Assam. In this connection I am to forward a memorial addressed to His Excellency the Viceroy and the Governor-General. The suggestion that the Jaintia Parganas might be separated from Sylhet did not emanate from this Government and the Governor in Council agrees with the Legislative Council that the Jaintia Parganas should not be separated from Sylhet. Apart from other considerations it would be impossible to have a clearly defined geographical boundary between the two provinces if these parganas remained in Assam after the transfer of the rest of Sylhet to Bengal. On the other hand, communications between Cachar and Shillong would not be affected by the transfer to Bengal of the Jaintia Parganas together with Sylhet, as the means of communication ordinarily used is the Assam Bengal Railway.

5. On the question as a whole, the Governor in Council adheres to the views expressed in my letter No. 1573-Pol.-3860-A. P., dated the 11th August 1925. Both the Assam and the Bengal Legislative Councils have now twice pronounced in favour of the transfer of Sylhet to Bengal, and the Governor in Council would not feel justified in offering any opposition to the fulfilment of their wishes, were it not for the uncertainty which exists regarding the political future of Assam. It will be observed that in the course of the debate the opponents of the transfer not unnaturally made the most of the arguments which might be used against the retention by Assam without Sylhet of the status of a Governor's province, while the supporters of the transfer professed their belief that, in spite of the Government of India's decision to leave the question open for the present, it is inconceivable that the transfer should involve any such consequences. The resolution declaring that Assam should not by reason of the transfer suffer in the matter of its political status was however carried unanimously. There can be no doubt that it represents a very strong feeling throughout the province and that any proposal to lower its status would lead, as Mr. Kuladhar Chaliha, one of the leading Assam Swarajists, significantly remarked, to an intense agitation more bitter than that of 1921. The Governor in Council feels that he would be failing in his duty if he did not urge upon the Government of India the importance of this aspect of the case. He earnestly trusts that if the Government of India decide to sanction the transfer of Sylhet to Bengal, they will find it possible to accompany their decision by an announcement regarding the political status of the rest of the province which will serve to allay the doubts which at present exist and to prevent a disturbance of the friendly relations which, after the bitter experiences of 1921-22, have now happily been re-established between Government and most sections of the community.

RAI BAHADUR SADANANDA DOWERAH:—Sir, the resolution which I wish to move in this Council is this:—

This Council recommends to the Governor in Council that (a) the district of Sylhet be transferred to Bengal, (b) Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces.

Sir, the question of the transfer of Sylhet was introduced in this Council by my Hon'ble friend Babu Brajendra Narayan Chaudhuri. The resolution moved by him was fully discussed in this Council and ultimately it was put to the vote and carried. After that resolution was accepted the Government of Assam sent recommendations to the Government of India, to the effect that Government of Assam would not object to the district of Sylhet being transferred to Bengal provided that the status of Assam as a Governor's province was not affected by that transfer. After that we have all seen the letter from the Government of India in which they insist that the opinion of this Council should be recorded apart from the question of the status. Of course it is hardly necessary for me to say that the resolutions of this Council are only recommendations and they have no binding effect either on the Government of Assam or the Government of India. Therefore this resolution has been framed in such a way that instead of using the words provided we have advocated that the district of Sylhet be transferred to Bengal and that our status as a Governor's province should not be done away with. This is not a conditional resolution but it is a resolution which recommends two things and consists of two parts, one part is not dependent on the other, so that those members who are of opinion that the district of Sylhet may be transferred to Bengal have nothing to object. If any member in this Council advocates the first part and opposes the second part the only interpretation I can put on such action is that he does not want Assam to continue as a Governor's province—that would be a resolution to which I would not be a party. The question is whether Sylhet should be transferred to Bengal or not. I have already said that this question was fully debated, and it was accepted by the majority of the elected members from the district of Sylhet. They all, with one exception, voted for this resolution, and if this is an indication of public opinion in Sylhet we can take it for granted that they do want to go to Bengal. Now the question is whether we in the Assam Valley would be justified in opposing them in going back to their own people? I for one venture to think that we shall not be justified unless there are very strong reasons to the contrary. If the district of Sylhet be transferred to Bengal the people of Assam would not be losers. On the other hand the people will be the gainers. If the hon'ble members would only read the proceedings of the first Council they will find that almost the whole proceedings are sickening record of rivalry of the claims of the two Valleys. If there is a question whether a certain

institution be established in the province the question becomes where it is to be located—at Sylhet or at Gauhati—and so on, and so we have had to drop these all questions of this nature. If Sylhet continues with us, what is the result? We shall have to carry on the same policy of drift—that unless we can have two institutions of the same kind in the two Valleys we cannot have one. With Sylhet in Assam there will be no policy, and unless there is a fixed policy there cannot be any progress. Let us take it that we have solved this question and that the resolution is lost. Does it mean that the question has been decided once for all? It will come up again and again, and perhaps for the next ten years the only politics of Assam will be whether Sylhet is to go to Bengal or not. The people of Sylhet will not be satisfied until they are restored to Bengal. This is a drifting policy which leads to nowhere. The question should not be considered in the interest of a particular community but in the interests of the province as a whole. We must know where we stand, so that we can cut our coat according to our cloth. This was the opinion of all the members who came from Sylhet except the member from Maulvi Bazar, my hon'ble friend Dewan Muhammad Wasil Chaudhury and a planting member. Barring these three members all the members voted in favour of Sylhet going to Bengal. Then there was the opinion of Cachar. I think they all voted in favour of the resolution.....

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—It was because Cachar was added.

RAI BAHADUR SADANANDA DOWERAH:—I am obliged to my hon'ble friend for correcting me. The matter is like this that if you do not give me to eat you must also starve. It is a very good thing to say I agree to your going if I am also allowed to go, unless you take me you cannot go. What is the opinion of the Assam Valley members? In their opinion they will not object to Sylhet going to Bengal because they think that it is not only giving effect to the wishes of the Sylhet members but it is to the interests of the province as a whole. It cannot be satisfactory to all sections of the people; I know to some it will not be quite welcome, but we must remember that we are deciding not for a particular community or a section of the people but for the whole province as a whole.

As regards the question of status, questions has been raised that if Sylhet is transferred to Bengal Assam will not continue as a Governor's province. I know there are some people who are inclined to be unduly pessimistic, but I am an optimist—rather too much of it. Assam is growing in population and will soon recover its population. And if the people of Assam will unanimously ask the Government of India to continue Assam as a Governor's province, I have little fear that the Government of India will disregard lightly to consider the unanimous opinion of the people backed by the Governor in Council.

As to the facts and figures, I understand that my hon'ble friend Maulavi Saadulla will go through them and will try to convince us that Assam cannot continue to be a Governor's province after the separation of Sylhet—but that I shall leave to be answered by my hon'ble friend Babu Brajendra Narayan Chaudhuri. I do hope—I am sanguine—that if Sylhet is transferred Assam will be better. With these words, I beg to move the resolution that stands in my name.

THE HON'BLE MR. A. W. BOTHAM:—I would suggest, Sir, if you think it will be convenient, that we should have all the resolutions and amendments moved; that then we should have a single discussion on the lot, and finally you should put the various resolutions and amendments to the vote in whatever order you think proper.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, I would like to strongly and vehemently protest against the suggestion made by the Hon'ble Mr. Botham. We meet here to-day to discuss only one subject, the question of the transfer of Sylhet to Bengal. We have already on the agenda as many as four resolutions still to be taken up, one having been withdrawn, and we have also, Sir, a list of amendments numbering, I believe, about half a dozen. Already a confusion is imminent and if all these differing resolutions are taken up all at once I am not sure how many cool and hard-headed brains are here in this House which will be able to steer clear of all these confusions. Sir, instances of confusions about the exact meaning and scope of a resolution and amendment we have had experience of in this Council and in the light of that experience I should think that if you allow all these to be taken together the case will be almost hopeless.

MAULAVI RASHID ALI LASKAR:—I rise to a point of order, Sir. Supposing the resolution that has been moved is passed can the other resolutions come in at all? So, I think all the resolutions should be discussed together and voted upon.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—I am also of that opinion, Sir. All the resolutions and amendments for instance show that some want Sylhet should be transferred and some want that Sylhet should not be transferred and some want that some proviso should be added. If all the resolutions and amendments are discussed together, and one by one each resolution is put to vote, the result would be one and the same. Discussing them one by one and discussing them all together would have the same effect.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—Sir, if I might intervene at this moment, I would suggest that there is only one question before the Council, so far as I can see and that is, the question whether Sylhet should be transferred or not. Although there are five resolutions and four amendments, to me it is clear that there is only one positive proposition, that emanating from my friend, the Hon'ble Rai Bahadur

Promode Chandra Dutta. We know also that he does not represent the Government in the matter of this resolution which he is moving. So, as I said there is one positive proposition that Sylhet should be transferred unconditionally. Against that we have now the proposition of my hoary friend, Dewan Muhammad Wasil Chaudhury Sahib, that Sylhet should not be transferred. There is also a conditional one which we can take either from the resolution to be moved by my friend, Mr. Taraprasad Chaliha, or the resolution just now before the House. These three things may be discussed together and voted upon; or first, the positive proposition, then the negative one and then the amendments proposed. This is the simplest way to cut short the matter.

BABU KRISHNA SUNDAR DAM:—I rise to say one word in connection with this. Sir, I think the President will do well to choose only those resolutions which will help to supply direct information on the issues framed by the Government of India in their letter. I find from the list that there are certain resolutions tabled which have no connection with what the Government of India really requires. The position as stated by the Hon'ble Minister, Maulavi Saadulla, that the only question before the House is whether Sylhet should or should not be transferred, I think that does not really come within the issues raised by the Government of India. In fact they have taken it for granted that the people of Sylhet have already expressed their desire to go to Bengal as has been explained by Rai Bahadur Sadananda Dowerah and they have only asked for specific information upon certain other issues framed, namely, whether the Jaintia Parganas should go or not.....

THE HON'BLE MR. A. W. BOTHAM:—I rise to a point of order, Sir. The only issues before the House are those which are raised in the resolutions of which notice has been given; and the hon'ble member is at present travelling outside the scope of those issues.

BABU KRISHNA SUNDAR DAM:—My point is that we shall be failing in our immediate duty if we debate all the resolutions taken together. So, I should like to have Mr. Dowerah's resolution put to vote separately because in my humble opinion it touches directly upon the issues framed by the Government of India, whereas the other resolutions like those of Khan Bahadur Alauddin Ahmed Chaudhuri and Maulavi Wasil Chaudhury have absolutely no connection with what the Government of India requires from us. In this view of the matter I shall support Babu Brajendra Narayan Chaudhuri in his opposition to the suggestion made by the Hon'ble Finance Member.

THE HON'BLE THE PRESIDENT:—With regard to the points raised by the Hon'ble Mr. Botham, certainly the only business before the House is this question of the transfer, and he made a

suggestion that we should proceed with the business and discuss all the resolutions hinging on that matter.

Other hon'ble members also have said that we have come to discuss only one matter, whether Sylhet should be transferred and whether that should be a conditional or an unconditional transfer, whatever that condition may be. In fact in my opinion the main issues that are before the House will come in in the course of the discussion of any one of these resolutions and it will be merely a question of putting the other resolutions before the House if they do not by the carrying or defeat of any resolution fall through. So, the question of placing all these motions before the House together does neither help the hon'ble members very much, nor put the hon'ble members to very much difficulty. Taking this view of the matter I shall prefer to proceed with the resolutions in the order in which they are.

THE HON'BLE MR. A. W. BOTHAM:—Perhaps, Sir, in the circumstances you will not object if in discussing one of these resolutions I travel slightly beyond the scope of that resolution and touch on what would be more appropriate with reference to one of the other resolutions (The Hon'ble the President:—Certainly not). It will be a little difficult to keep to the various resolutions separately.

I do not propose, Sir, to re-state the views of this Government as to the advantages and disadvantages of the transfer of Sylhet. They have been stated in this Council, they have been explained in the correspondence with the Government of India which have been circulated to hon'ble members. Nor do I propose to discuss the financial aspect of the question. We as a Government are convinced that we shall not be prejudiced financially by the loss of Sylhet. And apparently the Bengal Council are willing to take Sylhet for better for worse, for richer for poorer. (*Hear, hear.*) Consequently, Sir, I think it is not necessary for us to discuss the financial aspect any further. What I do want to do is to explain how the question seems to this Government to be affected by the observations of the Government of India and what line the official members will take in respect of the various resolutions before the Council having regard to the present position of the question. The Council will remember that the Government of Assam reported to the Government of India that if Assam without Sylhet would be allowed to preserve its political status and privileges they would not feel justified in opposing the transfer to Bengal. In reply the Government of India said that they cannot accept the view that this could be imposed as a condition of transfer and that the future status of Assam is a separate question which must be left an open matter to be decided on its merits after the transfer was made. Well, Sir, this ruling of the Government of India obviously makes it very incumbent on this Council to refrain from coming to any decision without weighing well its effects not only on the district of Sylhet but also on the rest of the province. Because, Sir, especially since the Bengal Council,

has expressed itself in favour of the transfer irrespective of the financial implications, if this Council finally decides to recommend the transfer, it does seem at any rate very likely that that recommendation will be accepted. What the effect of that transfer is likely to be on the status of the remainder of Assam, hon'ble members must judge for themselves. The Government of India have said that they cannot commit themselves in advance and obviously this Government is not in a position to express any opinion on the subject.

For this reason, Sir, Government prefer the resolution which has just been moved by Rai Bahadur Sadananda Dowerah to any of the other resolutions which are before the House because it does have regard to the interests of the rest of the province.

As regards Mr. Taraprasad Chaliha's resolution, that of course does exactly represent the opinion which this Government expressed in its letter to the Government of India. But since the Government of India has held that it cannot accept a recommendation conditional on the preservation of the status of Assam as a Governor's province, this Government fear that the only result of a conditional resolution may be that the Government of India will find themselves unable to take any action on it (*hear, hear*). We as a Government and, I think in this most, if not all, members of this Council will agree with us, do want to have this matter settled one way or the other. And we are therefore unwilling to support a resolution which is not likely to lead to a definite settlement. Mr. Dowerah's resolution on the other hand, as we understand it and as he has explained it, does not make the transfer conditional. It recommends definitely and unconditionally that the transfer should be made, but with that recommendation it does at the same time combine the further recommendation, that the status of the province should not be impaired, which must receive careful consideration and, we may hope, must carry very considerable weight if the question ever arises of reducing the status of the province.

For these reasons, Sir, the official members will support Mr. Dowerah's resolution.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Before I speak on this resolution may I make a suggestion to the hon'ble mover of the resolution? In the course of the speech he has made it very clear that his resolution is not a conditional one.

RAI BAHADUR SADANANDA DOWERAH:—No.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—If I understand him aright it means that the question of the transfer of Sylhet is to be decided on its own merits and that on the question of the status there is a separate recommendation, an independent recommendation from this Council that it should not be altered. If this is so, in order to remove obscurity

may I suggest to him an amendment—that is, that after the word "(*b*)" the following words be added:—

"while it is not the intention of this Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province."

What I want to do entirely and completely expresses the view that Mr. Dowerah himself has expressed here—that he is not going to make the status a condition of the transfer. These words will make the meaning of the resolution clear. Otherwise in spite of all that has been said the issue will remain obscure. What I do want is that the element of obscurity should be removed and if the hon'ble member is sincere in his statement I hope, Sir, he will accept it. May I know, Sir, if the hon'ble member accepts my amendment or not?

RAI BAHADUR SADANANDA DOWERAH:—I am unable to accept it.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Now Sir, the cat is out of the bag. I am afraid, Sir, I do not know how to vote on this resolution. So far as the first part of the resolution is concerned we are all in complete agreement with the hon'ble member. We do wish that Sylhet should be transferred and I thank him for including this as a part of his resolution. But, as I said, there is an element of obscurity in the resolution as framed. I should like particularly to know what is the intention in coupling (*a*) and (*b*) together. The hon'ble member has been pleased to say that he does not make it a condition. Well, Sir, that is not down in the resolution itself. The resolution says that the status of the province should remain unaltered. It means and it will be open to the Government of India to construe that unless the status is maintained this Council does not recommend the transfer. It is for that reason that I suggested to the hon'ble member to accept my amendment.

Now in regard to (*b*), it says that Assam should not be deprived of the political privileges which it now enjoys and further that all the privileges or any privileges that might be extended to the other provinces later on should also be assured to it. Now, then, Sir, the resolution is this, first "Sylhet be transferred" and secondly, an assurance be given to the hon'ble members of this Council that the reforms or the privileges now enjoyed by this province shall be continued and that any reforms that may be granted to other provinces in future may be extended to this province as well. Now, Sir, if (*b*) is a condition to (*a*), then (*a*) is nowhere. The Government of India will say, as the Hon'ble Mr. Botham has said, it is not a recommendation at all in view of their letter to the Government of Assam.

Now, Sir, as to the assurance which hon'ble member wants may I ask him if it is within the power of the Governor in Council to whom he addresses his recommendation to give him that assurance? I submit, Sir, that neither the Government of Assam nor the Government of India can give an assurance of the

extension of the reforms. As the hon'ble member knows as well as anybody in this Council there would be forthcoming a Statutory Commission in the year 1929, if not earlier, to advise Parliament whether there should be an extension of the reforms or a curtailment of the same, so that neither the Governor in Council to whom the recommendation is addressed nor the Government of India nor even the Parliament can give this assurance. What is then the object of including this within the resolution for the transfer of Sylhet? As I said the resolution is not clear. It is not quite unconditional. The Hon'ble Mr. Botham said it is not a conditional one and he accepts it in that sense. Since the hon'ble mover is not willing to accept the amendment it only means that he has at the back of his mind that the one thing is to be given only if the other thing is given.....

RAI BAHADUR SADANANDA DOWERAH:—My resolution is sufficiently clear and it is not a conditional one.

THE HON'BLE THE PRESIDENT:—I do not think any point of order arises. The Hon'ble Minister can interpret it in the way he likes.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Well, Sir, I wanted to make it clear that the resolution is not a conditional one.....

(*A voice:*—It is unnecessary.)

It may be unnecessary from the point of view of Mr. Barua, but it is necessary from my point of view. I do want to go to Bengal. I leave it to the Council to decide whether this resolution is not really a conditional one. As I have already said the Hon'ble Leader of the House accepts the resolution. He will support this resolution and also ask the official members to support it on the understanding that the resolution is not a conditional one. I want to make that point quite clear. May I refer to paragraph 4 of the Government of India's letter to the Government of Assam which has been circulated? In that paragraph they say:—

"In paragraph 11 of their letter of the 11th August 1925 the Government of Assam raise the question of the future status of Assam if Sylhet is transferred, and suggest that it should be laid down now that if Sylhet is transferred Assam should retain its status as a Governor's Province. The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer. They consider that the future status of Assam is a separate question which must be left an open matter to be decided on the merits after any transfer is made."

If anything is clear it is clear that the Government of India would have no condition or no conditional recommendation whatsoever. If the hon'ble mover is prepared to split his resolution into

two parts (*a*) and (*b*) I mean two independent resolutions I myself would see no difficulty in supporting them. But as it stands I am afraid I cannot support it, because there is an element of obscurity which he is not prepared to remove by accepting the amendment suggested by me.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—Sir, I find that the political and personal considerations of the resolution make the matter a bit complex. But I am always a believer in plain speaking and straight talk and I propose to discuss it in all its bearings without any reservation. The question of the transfer of Sylhet or rather to put in my own way the union with Bengal has been dealt with in that memorable speech of Sir Nicholas Beatson Bell, but I find that the speech has been ruthlessly criticised in a small pamphlet known as 'Back to Bengal'. It is really regrettable to me that motives have been ascribed upon that Ruler in connection with his speech.....

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Surely that is not the subject before the House at present.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—I am just preparing the ground and explaining the situation.....

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Yes, but do not stray from the subject under discussion.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—In fact the speech made in the spirit of confidence and trust and general well-being of the country was received with prejudice and suspicion. It stimulated some of the best friends of the province of Assam to a keen desire to build and create, while it inflamed others with the passion to destroy. The writer of the preface of that pamphlet said that "there can be no affinity ethnological, social, religious or linguistic" between the people of Sylhet and Assam. I like to deal with these expressions in order in which they stand. The Ramayan tells us that King Amuratharaja of the Lunar dynasty leaving Pundra land founded an Arjya kingdom near Dharamranya in Pragjatishpur (Kamrup). Again, the Mahabharata tells us that King Bhogadatta of the same Pragjatishpur took part in the battle of Kurukshetra and Kamrup has also been described equally sacred and holy as Banares-Kashidham, in Jugini Tantra. It is also a fact that Sylhet and Jaintia formed a part of the Kamrup.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—It is not a battle of Kurukshetra yet here.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—Formed part of the Kamrup Raj.....

BABU KRISHNA SUNDAR DAM:—May I know, Sir, if the Government of India require information of this nature? (*Laughter.*)

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—I rise to a point of order, Sir. Is it fair that the hon'ble member should be incessantly interrupted in this way?

THE HON'BLE THE PRESIDENT:—Members should give the speaker every opportunity to express his views. He is giving facts in order to bear out his arguments and I am waiting to see whether they are relevant or not. So far the speaker is quite in order.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, do we understand that we are not required to keep within the four corners of the issues raised in Mr. Tonkinson's letter to the Government of Assam? We can also in this connection discuss other matters which have not been touched in the Government of India letter. Am I to understand that this is so?

THE HON'BLE THE PRESIDENT:—We are discussing the subject-matter before the House, but at the same time I am prepared to give every member an opportunity to prepare his ground by saying anything to achieve that end. I do not know what the member is going to say ultimately. I shall wait to hear how he makes it relevant.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—It is also a fact that Sylhet and Jaintia formed a part of Kamrup Raj when Huensiang, the Chinese traveller, visited India. May I know how Assam could be said to be quite different from Sylhet on ethnological grounds?

Hajrah Shaha Jalal conquered Sylhet from the Hindu Raja Gaur Govinda in the 14th century A. D. and it formed a part of the Moghul Empire in the 16th century. Thus it is clear from traditions and history that Sylhet all along from time immemorial was politically connected with Assam before the 16th century till 1874. It throve under the suzerainty of Kamrup Raj and I.....

BABU BRAJENDRA NARAYAN CHAUDHURI:—What is your authority for that?

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—I have already stated the authorities. And only in the 16th century it formed a part of the Moghul Empire. From 1874 up to this time for a period of about 50 years Sylhet might have been slow in her social intercourse with Assam because of the difficulties of communication which stood as strong barriers between the two Valleys and before the railway lines were opened. But even then, matrimonial connections were not altogether denied. For instance, the late R. C. Dutta, perhaps the first Bengali Divisional Commissioner, had given one of his daughters in marriage.....

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—Need we go into personalties, Sir?

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—Would you allow me to deal with personalities? Then I may say that R. C. Dutta, the first Bengali Divisional Commissioner, gave one of his daughters in marriage to Srijut Balinarayan Bora of Assam. Two Muhammadan gentlemen, namely, late Maulavi Tamijuddin Ahmad *alias* Najmul Hussain of the Assam Provin-

cial Service and Khan Saheb Maulavi Sarafat Ali Chaudhury, retired District Superintendent of Police, had also married in Assam. As to the religious aspect of the matter we all knew that the reverential position of Brahmin Gohains among the Assam Hindus is not a whit inferior to the position held by the high caste Brahmins in Sylhet. Again Srijut Benudhar Rajkhowa of the Assam Civil Service has proved the affinity between the dialect of Sylhet and that of Assam. In face of these facts, I am surprised how the writer of the pamphlet and that of the preface could denounce so loudly the social, religious and linguistic affinities that exist between Sylet and Assam. The facts of this case ought to make the writers hang their heads down in very shame. So it behoves this Council to examine the matter very carefully and dispassionately.

In that pamphlet an attempt was made to prove that the cry for the transfer of Sylhet to Bengal was a general one, but it was not so, and so it behoves this Council to examine the matter very carefully and cautiously. Now, I should offer an apology to the hon'ble mover of the resolution and say that my object is not to lower the position of Assam in any way but to remain in touch with our Assamese brethren for all times to come.

Now as to the idea that the desire for the transfer of Sylhet is a general one, I submit for the information of the House that it was never the case, and that the Muhammadan community in Sylhet even in 1874 when Sylhet was united with Assam, was against it. The then leading Zamindar Maulavi Hamid Bakht Mazumdar Saheb did not associate himself with the movement. After 1874 there seems to have been a lull for a considerably long period during which scarcely anybody heard anything about the transfer question. Then in 1912 a feeble voice was heard in that direction, and it was responded by the late Khan Bahadur Saiyid Abdul Majid, C.I.E., in a strong protest against the proposed amalgamation. Nine years later in 1918 when the said echo was repeated, a telegram on behalf of the Muslim community was cabled to Mr. Montagu under the signature of the late Khan Bahadur Maulavi Muhammad Ahia, one of the leading zamindars and holder of the Kaisar-i-Hind gold medal, in opposition to that voice. (*Hear! hear!*) Then how can we say that the desire is a general one?

If we compare the present with the past from 1874, we find that Sylhet joined with her ancient comrade Assam only having 1 high school, about 6 or 7 middle schools and 100 primary schools for the education of her children. But now she possesses about 17 high schools, 70 middle and 1,300 primary schools, besides one Arts College, 1 first grade Madrassa, and one Sanskrit College all maintained by Government, and with the privilege of free vernacular education throughout the province. The Primary Education Bill for a measure of compulsion is now engaging consideration. The bench and bar of Sylhet at the time of separation from Bengal were almost full with the people from East and

West Bengal. The subordinate services also shared the same fate. But what do we find now? Sylhet not only elbowed out her Bengali friends from bench and bar and other subordinate situations but managed to send her gifted children to take part in the administration of the province here and elsewhere. Sylhet separated from Bengal only with 2 or 3 graduates of the Calcutta University. But now she has produced a battalion of graduates some of whom have taken to trade and other jobs besides the Government service. Sylhet had only about 70 miles of roads when she parted from Bengal, but at present she has 1,290·02 miles of roads under the Local Boards alone. Are all these signs of deterioration or progress as the result of her coming in contact with the alleged backward and foreign people? Is it not a fact that Sylhet has run the race of progress along with other parts of Bengal? Is it not a fact that she has raised her status by the union with Assam—she is now the premier district here? It is true that some educated people seek reunion with Bengal on political grounds, for better environments, good atmosphere and association according to their estimation. But I say, is it not insulting to our self-respect, self-determination and self-help to go to a people who look askance at us? Is it not more generous and manly on our part to join hands with our ancient comrades in Assam, which is full of resources, and to try to make it a model province in India?

I believe sincerely that privately no Indian will deny that this country has been greatly benefited by British connection, and as a nation the Britishers are not so black as they are occasionally painted. I trust if autonomy is granted to Bengal, it would be allowed to Assam also. If federacy is introduced into India, Assam would not be denied a membership there.

Now, Sir, let me speak a few words about the hardships and difficulties which would disturb the present peace and prosperity of Sylhet if she joins with Bengal. Firstly, the privilege of free vernacular education will be lost, as the system is not in vogue in Bengal, and the Sylhet people will have to pay about Rs. 1,25,000 as tax in the shape of school-fees for vernacular education. Secondly, the district will have to be cadastrally surveyed entailing a cost upon her of Rs. 3,00,000 or so, in the near future. Thirdly, the chaukidari tax will have to be paid at an enhanced rate. Fourthly, the countryboats which ply a very important part in communication and transportation of goods in the Habiganj and Sunamganj subdivisions—nay almost all over the district—will be taxed, and such tax may exceed a lakh of rupees touching mostly the pockets of our poor Namasuds, Patnis and Mahimals. Lastly, the introduction of the Bengal Tenancy Act would prove ruinous both to landholders and raiyats of Sylhet. As every Sylhet member knows that the zamindari system in Sylhet is not on a par with Bengal. I may draw the attention of the House to the fact that Sylhet contains 1,41,449 permanently and temporarily-settled estates divided in 174 perganas and owned by 2,400,000 people approximately, or in other words, each estate is held on an

average roughly by a unit of 36 souls. This explains the difference of the position of landholders in Sylhet and in Bengal. Again, Sir, I may submit for the information of the House that the settlement in Sylhet was in most cases made with the peasant owners and not with the zamindars, and as such the present relation of the zamindars and raiyats in Sylhet is one of cordiality and sympathy. If the Bengal Tenancy Act is introduced it will prove a terrible scourge to all people concerned.

Under these circumstances I request the House again, to consider the question seriously and dispassionately and to decide whether Sylhet is to go to Bengal leaving her Bengali-speaking brethren of Cachar and Jaintia, and Goalpara behind, and in the teeth of economic and other disadvantages pointed out by me; or to forget all our petty jealousies and discussions between community and community and combine in one brotherly spirit and proceed onward towards the goal of making the province of Assam a model one as she possesses sufficient resources for the purpose.

With these humble submissions I oppose this resolution.

BABU KSHIROD CHANDRA DEB:—Sir, may I ask a question? The hon'ble member said that the Muslim opinion was unanimously against the transfer, but we find from Mr. Gimson, the Deputy Commissioner of Sylhet's letter that the Anjuman-i-Islamia of Habiganj was in favour of the union. Is that information correct?

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—This cannot be accepted as an authority. I said general, not unanimous. The Habiganj Anjuman may have been in favour for reasons best known to that body which scarcely represents the masses of Habiganj.

THE HON'BLE THE PRESIDENT:—The hon'ble member did not refer to the opinion of the Anjuman. He was referring to the general opinion of the Muhammadans.

BABU KSHIROD CHANDRA DEB:—Did he say that the Muhammadan opinion was not unanimous?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Sir, I think on reconsideration the Hon'ble Mr. Dowerah will accept my amendment.

RAI BAHADUR SADANANDA DOWERAH:—Sir, my resolution was and intended to be an unconditional one. But if the hon'ble members want to emphasise it by accepting the amendment I would accept it.

REV. J. J. M. NICHOLS-ROY:—We want to know the amendment. We object to the amendment being accepted at this stage.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—The amendment which the mover has accepted is:—

"This Council recommends to the Governor in Council that (*a*) the district of Sylhet be transferred to Bengal, (*b*)

while it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any political privileges which it at present enjoys in common with other Governors' provinces or which might be hereafter extended to other Governors' provinces."

KHAN BAHADUR ALLAUDIN AHMED CHAUDHURI:—I object to the amendment at this stage. It alters the whole resolution.

BABU BASANTA KUMAR DAS:—Are we to understand that Mr. Dowerah has accepted the amendment?

THE HON'BLE THE PRESIDENT:—I am just waiting to know what the opinion of the House is. Mr. Dowerah cannot accept the amendment unless he is permitted to do so by me.

REV. J. C. EVANS:—Sir, we on this side of the House have not been able to follow exactly what the amendment is. We are quite in the dark about it.

THE HON'BLE THE PRESIDENT:—The amended resolution will read like this:—

"This Council recommends to the Governor in Council that (*a*) the district of Sylhet be transferred to Bengal, (*b*) while it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any political privileges which it at present enjoys in common with other Governors' provinces or which might be hereafter extended to other Governors' provinces."

REV. J. J. M. NICHOLS-ROY:—We have objected already, Sir.

BABU KRISHNA SUNDAR DAM:—Are we permitted to speak, Sir, on this amendment?

THE HON'BLE THE PRESIDENT:—The amendment is not before the House yet.

Hon'ble members will realise that this resolution has been admitted rather late and some members were under a misapprehension whether this resolution is coming before the Council at all. The Hon'ble Minister for Local Self-Government was one of those who were under the misapprehension that it was not coming before the House. But for this difficulty which the hon'ble mover points out to me, I would not have perhaps allowed this amendment to be put before the House. In the circumstances I think I should allow the amendment though it comes rather late.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—May I know one thing, Sir? As it stands, the resolution of Mr. Dowerah, as amended now, is the same as the Hon'ble Rai Bahadur Promode Chandra

Dutta's resolution. I proposed an amendment to Resolution No. 5. Am I understand, Sir, that I shall have to move the proposed amendment to the resolution of Srijut Sadananda Dowerah in its amended form?

THE HON'BLE THE PRESIDENT:—That is the look-out of the hon'ble member. Certainly the resolution has taken a different form and the hon'ble member can move any further amendment he desires now.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—Am I to understand that Resolution No. 5 would not be discussed at all? May I know this from the Hon'ble Rai Bahadur Promode Chandra Dutta?

THE HON'BLE THE PRESIDENT:—It is too early to enquire of the hon'ble member. It would depend on the voting on the other resolutions.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—Then, if Resolution No. 2 is carried what will be the fate of my amendment, Sir?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—That amendment goes.

THE HON'BLE THE PRESIDENT:—But, if the hon'ble member desires to make any amendment to the motion before the House, he is quite welcome to do it.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—But as the amended resolution stands now, my amendment cannot be put in.

THE HON'BLE THE PRESIDENT:—The hon'ble member may, if he desires, make any amendment in regard to the new resolution before the House. He is quite welcome to do it. I think the hon'ble member evidently wishes to know what would be the fate of the fifth resolution if this resolution is carried. That the hon'ble member can presume.

MAULAVI RASHID ALI LASKAR:—Any member can make an amendment at this stage, I believe. If so, how can they do so unless they get a copy of the amended resolution?

THE HON'BLE THE PRESIDENT:—If the hon'ble member desires he can make an amendment because the original resolution has been modified. The hon'ble members did not know whether the resolution in its present form would be coming before the House; otherwise they might have proposed amendments earlier. On that consideration I shall permit the hon'ble members to make amendment to the present resolution.

BABU BASANTA KUMAR DAS:—May I suggest a short amendment, Sir? Now, in the Government of India's letter it was distinctly stated.....

THE HON'BLE THE PRESIDENT:—I must definitely know whether the hon'ble member is only suggesting a short amendment or moving it.

BABU BASANTA KUMAR DAS:—I am only suggesting, Sir. It was distinctly stated in the Government of India's letter that the question of the Jaintia Parganas should be separately considered, and perhaps in order to make that point more explicit the Hon'ble Rai Bahadur Promode Chandra Dutta worded his resolution like this: 'Sylhet including the Jaintia Parganas'. So, may I suggest to the hon'ble mover of the resolution that he should add after 'Sylhet' the words 'including Jaintia Parganas'? Although the Jaintia Parganas are included in the district of Sylhet it would be better to add these words in order to meet the Government of India's point. It would show that the question about the Jaintia Parganas was separately brought before the House for consideration.

RAI BAHADUR SADANANDA DOWERAH:—If it is necessary, then it will also be necessary to add 'the district of Sylhet including all the villages therein'.

BABU BASANTA KUMAR DAS:—My object was only to meet the Government of India's letter. In their letter the point was clearly stated.

THE HON'BLE THE PRESIDENT:—I think the hon'ble mover means 'including the Jaintia Parganas'.

RAI BAHADUR SADANANDA DOWERAH:—I mean that.

THE HON'BLE THE PRESIDENT:—Unless there is any special phrase to indicate the contrary, the district of Sylhet would include the Jaintia Parganas.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—My amendment will run like this:—

> '*While it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration of the status of the rest of the province*' *be totally omitted.*

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—That is not an amendment.

THE HON'BLE THE PRESIDENT:—This is not an amendment. When the amendment was first moved the hon'ble member should have opposed it. That was the only course, but he did not adopt it. What he has just moved cannot be regarded as an amendment.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—But, there is one difficulty. The amendment was accepted by you, Sir. I wanted to vote on the original resolution which Srijut Sadananda Dowerah moved. I do not like to support the present resolution in the amended form. At the same time I want to put my amendment, but if in the meantime the Hon'ble Rai Bahadur Promode Chandra Dutta withdraws his resolution then my amendment will have no opportunity of being discussed at all.

THE HON'BLE MR. A. W. BOTHAM:—If I may be permitted to point out, Sir, the effect of the resolution which the hon'ble member wishes to move will be attained by resolution No. 3 in

the name of Mr. Taraprasad Chaliha. I think Mr. Chaliha's resolution practically amounts to the Hon'ble Rai Bahadur's resolution with the amendment of Mr. Ziaosshams.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—Then, may I know on a point of information whether Mr. Chaliha will press his motion.....

THE HON'BLE THE PRESIDENT:—The hon'ble member (Maulavi Abual Mazid Ziaosshams) should address the Chair.

MR. TARAPRASAD CHALIHA:—The hon'ble member should have given notice of a resolution, instead of an amendment.

THE HON'BLE THE PRESIDENT:—I may inform the hon'ble member (Maulavi Abual Mazid Ziaosshams) that his purpose may be served by Mr. Taraprasad Chaliha's resolution.

THE HON'BLE MR. A. W. BOTHAM:—Then, Sir, I am afraid all that the hon'ble member can do is to vote against the present resolution.

THE HON'BLE THE PRESIDENT:—Before I come to any decision regarding the point I must point out one fact to the hon'ble mover of the resolution that has just struck me. I gave much consideration before we admitted the resolution of the hon'ble member as one resolution. I can inform him that it came almost to the border line, and the amendment has absolutely separated the resolution into two resolutions.

THE HON'BLE MR. A. W. BOTHAM:—May I point out, Sir, that the Hon'ble Minister's point in suggesting this amendment was that it added nothing to the meaning of the resolution, that it only emphasizes a point in it which was existent in it before. If now the two portions of the resolution are put separately the whole object of the resolution may be lost. Certainly, Sir, Government are unable to support the first part of the resolution if it is put in two parts.

THE HON'BLE THE PRESIDENT:—In admitting a resolution we have not only to look to the scope of the resolution, we have got also to look to its form. As the form of the resolution at present stands, I am afraid I cannot allow both the parts to be treated as one resolution and to place it before the House as one resolution. I am, therefore, mentioning the matter to the hon'ble mover of the resolution.

RAI BAHADUR SADANANDA DOWERIH:—It is within your power, Sir, to put a resolution in any way you like. With all respect to the Chair I beg to submit that by accepting the amendment I have not changed the resolution. It only emphasizes the fact that it is not a conditional resolution. So I appeal to you, Sir, to put the whole resolution as a whole to the vote of the House.

THE HON'BLE THE PRESIDENT:—As I pointed out to the hon'ble members both the parts of the resolution almost came to the border line, and this amendment has made the two parts so separate that, I am afraid, I cannot put them as one resolution.

BABU BASANTA KUMAR DAS:—May I submit, Sir, that this amendment will not make the resolution a different one? I agree with the Hon'ble Mr. Botham that it is one and the same resolution and the interpretation that you are putting, Sir, is really taking away the hon'ble mover's meaning in the resolution.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—May I just say a few words, Sir? It is your intention to give scope to any hon'ble member to put in any amendment provided it is relevant. Now, Sir, if the resolution of Mr. Dowerah as it stands by the amendment of the Hon'ble Mr. Dutta is passed I cannot move my amendment to the resolution standing in his name. So unless as you point out the resolution as amended and accepted by you is split up into two parts I cannot put my amendment at all. So it will be only fair to split the resolution, as you say, Sir, into two parts.

THE HON'BLE THE PRESIDENT:—I am looking to the form of the resolution.

RAI BAHADUR SADANANDA DOWERAH:—I accepted the amendment only because it made clear that the resolution is not a conditional and if it is your ruling now that the resolution is to be put into two parts I would rather not accept the amendment and stick to the original resolution and ask you to put the whole resolution as a whole to vote.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—But, Sir, you have allowed the amendment to go in.

BABU BASANTA KUMAR DAS:—May I again ask you, Sir, to reconsider the decision?

SRIJUT KULADHAR CHALIHA:—May I point out to you, Sir, that it is not obligatory on your part to accept it in two parts? The object of Mr. Dowerah as well as that of the Hon'ble Mr. Dutta is the same. As such I do not think there can be any difficulty on your part, Sir, to put both parts of the resolution together. We feel that there is absolutely no difference and the Government Member has just explained—and we are entirely in agreement with his views that it only emphasizes or makes it clear a doubtful point in the mind of our over-scrupulous Hon'ble Mr. Dutta, though we ourselves had not the least doubt about it and in order to comply with the request of that over-scrupulous mind we have just agreed to his amendment. I do not think, Sir, it will be doing any harm if both the parts are put together. It will rather complicate matters if you put them separately.

THE HON'BLE THE PRESIDENT:—I am not at all concerned as to how this will affect the hon'ble members. I am just looking to the form of the resolution, whether we are creating a precedent which will compel us to allow any incongruous matters to be put into one resolution. Personally, I am very little concerned whether the two parts are put to the House together or separately. I am only concerned in trying to avoid a bad precedent.

SRIJUT NILMONI PHUKAN:—I think this amendment was moved only to clear up an obscure issue. At any rate we want to vote on both the parts together.

THE HON'BLE THE PRESIDENT:—There is no question of obscuring issues. It is only with the form of the resolution that I am concerned.

BABU KSHIROD CHANDRA DEB:—*Unless the first part of* the resolution 'that Sylhet be transferred to Bengal' is not carried, the second part is meaningless; two parts are inter-dependent.

THE HON'BLE THE PRESIDENT:—I quite understand the position of the hon'ble members. I am just looking to the form. As I pointed out to the hon'ble members, when we admitted both the parts as one resolution we had to give our utmost consideration. We did not treat both the parts as separate resolutions, but we thought both the parts had come to the border line; but the present amendment separates them all the more.

(*Voices*:—Entirely.)

SRIJUT KAMAKHYARAM BARUAH:—With all respect I beg to submit, it Sir, that it is quite permissible to move a resolution involving two or more distinct propositions. Standing Order 36 says:—

> "When any motion involving several points has been discussed, it shall be in the discretion of the President to divide the motion and put each or any point separately to the vote as he may think fit."

So when a resolution moved and to be passed by the Council involves several points—as is the resolution before us—it is quite discretionary on your part as President to put it in two parts or in whole and there will be no departure in practice, I think, Sir, if you put it in whole.....

THE HON'BLE THE PRESIDENT:—The President in exercising his discretion has got to follow certain principles. I should exercise my discretion in this particular case by putting the two things as separate. They cannot be regarded as one motion.

I quite realise the difficulty of the hon'ble mover. I understand his difficulty, but of course I will consent to his going back to the original resolution if the hon'ble members agree.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Can that be done, Sir? You have already allowed the amendment and he has accepted it.

THE HON'BLE THE PRESIDENT:—Yes, I permitted the hon'ble mover to accept your amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—He has accepted the amendment as a matter of fact.

SRIJUT KULADHAR CHALIHA:—You are creating a dangerous precedent, Sir. If after accepting an amendment an

hon'ble member is permitted to do so, it will be creating a dangerous tradition.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—I submit, Sir, it will amount to an amendment of an amendment already accepted.

THE HON'BLE THE PRESIDENT:—It is not an amendment of an amendment. As I have said if the hon'ble members of the House agree, that can be done. If they do not agree we shall have to stick to the position and both the things must come separately. I shall put both parts separately.

RAI BAHADUR SADANANDA DOWERAH:—So I will ask you, Sir, to put my original resolution to the vote at the same time without splitting it into parts.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I oppose the withdrawal of the amendment of the resolution by Srijut Dowerah which he has already accepted.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—I think he is perfectly in order in withdrawing it.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—We want the President's ruling.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—Sir, the entire proceedings has been a series of withdrawals. We started with an withdrawal, when you, Sir, allowed Mr. Dowerah to propose his resolution, after having withdrawn it by a formal letter to you and proposed an amendment. After that, at a very late stage the amendment of Rai Bahadur Promode Chandra Dutta was allowed as a special grace to be accepted by the mover of that resolution. I do not think, Sir, that that grace which you have twice extended should now be taken away for the third time.

REV. J. J. M. NICHOLS-ROY:—Sir, you have already given a ruling that the resolution should be taken into two parts if the amended resolution is not allowed.

SRIJUT NILMONI PHUKAN:—We opposed the resolution on the understanding that both should be taken together.

THE HON'BLE THE PRESIDENT:—As I have already ruled, I shall place both the parts separately. But in order to avoid confusion I might tell the hon'ble members that the purpose of the original resolution might be served by bringing an amendment to Resolution No. 3 that stands in the name of Mr. Taraprasad Chaliha which will not fall through if both parts of this resolution be defeated. I understand the difficulty of the hon'ble mover of this resolution but that difficulty can be met by attending to the resolution of Mr. Taraprasad Chaliha.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—But, Sir, may I know what will be the effect of the acceptance of these two parts of the resolution upon the resolution of Mr. Chaliha? Supposing both parts are accepted by the House, what would be the effect on his resolution? Will it stand or fall?

THE HON'BLE THE PRESIDENT:—If this resolution is accepted then the acceptance of the first part of the resolution will cause the resolution of Mr. Chaliha to fall through.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—If both the parts are put separately then, I think, I can put my amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—No, that cannot be.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—I want a ruling from the Chair.

THE HON'BLE THE PRESIDENT:—I should like to know whether any other gentleman wishes to speak on these two motions.

THE HON'BLE MAULAVI SAYID MUHAMMAD SAADULLA:—I should like to speak now, Sir.

In my opinion, this is the most momentous debate that we are having within this Council Chamber. The vote that will be cast on this motion will either make or mar Assam. I realise the feeling, prompted by the newly acquired emphasis on the word 'self-determination', which has animated my friends from the other Valley to press their cause for an unconditional transfer to Bengal. I quite realise the very pious wish that is being conveyed in the resolution before the House that we should not oppose this principle of self-determination which is the ultimate way to reach self-government by every one of us. A further pathetic recommendation conveyed in this resolution is that by the transfer of Sylhet, we, *i.e.*, the rest of Assam, should not step backward in the political march of the Indian Empire. But I want to sound a note of warning. How far will this pious wish of the retention of the status of the Governor's province carry us? A friend of mine in another Council had said that 'if human memory is short official memory is shorter still' and I find that almost all my friends have fallen at least to that degree of oblivion that they have forgotten the official story. We need not go very far back, for the benefit of the Reforms were granted to us only the other day. We all know that the late Mr. Montagu, that very great champion of Indian liberty, toured throughout the country to elicit public opinions. The deputations from Assam—two from the Assam Valley and one from the Surma Valley—pressed their claims to such an extent that in their joint Report, the Authors gave a place to Assam as a major province fit to receive constitutional Reforms. But when the Report was submitted to the Government of India what did they do? I think every one of our politicians especially our friends in the Council have studied the celebrated Ninth Despatch on the Indian Constitutional Reforms, the proposal as regards Assam that was conveyed by the Government of India on 5th June 1919 to the Secretary of State the Right Hon'ble Edwin Montagu. I think it would surprise many of the hon'ble members present to know that the Government of India was extremely unwilling to accord to Assam a place in the Reformed constitution. I would like to place a few passages from that memorable document for

the consideration of my friends from the Assam Valley as well as from the Surma Valley, so that they must cast their vote in such a way that the aims of both parties may be safeguarded. The whole of the 9th Despatch is on ' Assam and backward tracts ', that is to say, Assam has been relegated to the category of a backward tract. I find it stated in paragraph 2 thus:

" The province has an area of 77,500 square miles or slightly less than that of the neighbouring province of Bengal, but 50,000 square miles or almost two-thirds of this area is composed of hill tracts, peopled by simple hill tribes who are governed in a patriarchal fashion. The more advanced portions of the province is confined to the Assam and Surma Valleys. The whole province has a population of about 3 million, but the area of Assam Valley is 20,000 and that of the Surma Valley 7,000 square miles. The total population of the province is only 7 million or about half that of the Central Provinces which in point of population is the next small of the nine principle provinces. The gross revenue of the province is approximately only 171 lakhs as compared with 404 lakhs in Bihar and Orissa which has the next lowest revenue."

Then in paragraph 4, I find this statement which is also signed by Lord Chelmsford who was one of the joint authors of the Montford Report. This shall have to be borne in mind when we realise the full significance of the recommendations of the Government of India:

" The decision for treating Assam in a special manner must be sought not so much in its area which as we have mentioned is almost equal to that of Bengal as in the very large proportion of this area which lies in the Hills and in peopled by primitive tribes and the consequent smallness of the area which is correspondingly with a small population and revenue which can be compared in the matter of general progress and advancement with the rural tracts of other provinces."

Then in paragraph 5 they say: " Our view is that the hill tribes clearly call for special treatment and that the remainder of the province—I lay very great emphasis on this portion of the Despatch—" and that the remainder of the province is too small to carry the elaborate constitutional superstructure which we have proposed in the case of the other provinces."

Then I find, Sir, that they mention that one of the proposals that was made before the late Mr. Montagu and Lord Chelmsford was that there was an eventuality of merging Assam into Bengal. I would read that portion again:

" The last constructive proposal which we shall mention is of a different type from any of the preceding. You are aware that certain of the inhabitants of Assam have expressed the desire for a reunion with Bengal. Some of our advisers would go further than this. They suggest that all the plain districts of the province should be transferred to Bengal and the remainder of the province should continue to be administered on the present lines."

Well, Sir, I find that they were precluded from taking this course, *i.e.*, taking all the plains districts of Assam into Bengal for this very simple reason which they say at the end of paragraph 13:—"We have therefore no evidence that there is any general desire for a transfer to Bengal, and we agree with the authors of the Report"—(Lord Chelmsford is a party to the Report as well as to the Despatch)—paragraph 246—"and with the Chief Commissioner that redistribution of provincial areas should not be imposed by official action and should follow rather than precede or accompany reform. For these reasons we do not propose to seek a solution of the problem in any territorial readjustments." Hon'ble members will at once find from this statement that because the Chief Commissioner was opposed at the time, because a general desire for a reunion with Bengal was not made by the people then, and because it was thought that territorial redistribution should not accompany reforms, that the possibility of the Assam districts being taken over to Bengal was not considered. Now if you accept the resolution which has been moved by Rai Bahadur Sadananda Dowerah, that as there is a general desire on the part of the Sylhet people they should go to Bengal, one of the factors you already concede. Secondly, we find from the speech of the Government spokesman to-day, the Hon'ble Mr. Botham, that they dare not face the Government of India with the same proposal which they made in August last; they dare not propose that the transfer should be a conditional one, *i.e.*, they dare not recommend that Sylhet should be transferred to Bengal on the condition that the rest of Assam do continue as a Governor's province. Therefore as a matter of despair they agreed to support the very tamely worded resolution of Rai Bahadur Sadananda Dowerah. I request hon'ble members from the Assam Valley to consider very seriously whether in view of these statements of the spokesman of the Government of Assam, and the Government of India letter of October last they can expect any hope that the Government of India is solicitous for the continuance of a Governor's province for the remainder of Assam.

Now, with reference to the proposal which was made at that time—(with due deference to Lord Chelmsford, who happens to be a common party to the Report as well as to the 9th Despatch) they recommended this:—"It is time now to put forward our own proposals. At the head of the province we would retain the Chief Commissioner with his present title and the emoluments proposed in paragraph 36 of our Despatch of March 5. The retention of the title of Chief Commissioner would mark the difference between Assam and the other provinces in the matters of size, wealth, development and general importance, and for this reason it appears to us to be far more suitable than the more imposing designation of Governor, which would also involve additional expenditure, if the accepted status of that office is to be maintained". Further on I find that just to solace the opinion of Lord Chelmsford, who recommended the introduction of reforms

to Assam, they wanted to give us one Executive Councillor and one Minister. Sir, if that was the mentality of the Government of India, then, so far as Assam was concerned towards the proposal that Assam should be made a Governor's province, I doubt what will be the fate of the rest of Assam with Sylhet taken away now, when we have given them the handle to take away the status with our own vote. Assam came under the Reforms through the large hartedness of late Mr. Montagu and the strenuous labours of the Assam Valley deputation that appeared before the Parliamentary Committee and the British Public.

The wording of paragraph 4 of the Government of India's letter (Mr. Tonkinson's letter dated 24th October 1925) is only a reflection of the mentality which is shown in the 9th Despatch. Sir, in July last, the resolution here was passed without any mention of status; it was a resolution for an unconditional transfer of Sylhet and Cachar to Bengal; neither in the speeches anybody raised the question of status at all. It was only in their letter to the Government of India that the Government of Assam—(which is constituted by His Excellency the Governor and the two Executive Councillors) that they raised this question of status—they said that you better take away Sylhet to Bengal but keep to us the status of a Governor's province. What is the reply we get? The Council did not put any condition but simply because the question of status was raised by the Government of Assam, the Government of India say:—

"In paragraph 11 of their letter of the 11th August 1925 the Government of Assam raise the question of the future status of Assam if Sylhet is transferred, and suggest that it should be laid down now that if Sylhet is transferred Assam should retain its status as a Governor's province. The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer." As the Hon'ble Rai Bahadur Promode Chandra Dutta has already said if anything could be clear, this is clear. The view which the Government of India have in their mind is plain. Further on they say:—"They consider that the future status of Assam is a separate question which must be left an open matter to be decided on the merits after any transfer is made." On the merits and not by any recommendation. The resolution which has been moved is not even a conditional one—at its best it is an attempt to make it a condition of the transfer. But by the acceptation of the amendment, even that vestige of condition has been removed. Heaven alone knows what is meant by this amended resolution. The letter goes on to say:—"The Government of India observe however that any change in the status of Assam would probably involve an amendment of the Government of India Act, and therefore for some time at any rate Assam would remain a Governor's province".

SRIJUT KULADHAR CHALIHA:—Sir, the hon'ble member has exceeded his time.

THE HON'BLE THE PRESIDENT:—I made some consideration to the other speakers. I think the House would like to hear some of the facts which he is placing before the House. Even those who oppose the resolution might like to hear the arguments, and therefore I wish to let him proceed.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—I am obliged to you, Sir.

I would again request my friends from both Valleys that they should not be blind to the implication that is conveyed in the last sentence of paragraph 4, wherein the Government of India say that "they are unable to state now whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by some 33 per centum." Again I say could anything be more distinct, more clear and pregnant of dire consequences than this last sentence of that letter?

I will now give the census figures to show where we stand without Sylhet. I have already pointed out that the Government of India consider that the population is too small, even half of the lowest of the other provinces, *i.e.*, Central Provinces. From the Census figure of 1921 I find that the total population of the province, including Sylhet, is 76 lakhs.

BABU BRAJENDRA NARAYAN CHAUDHURY:—I think the population is 79 lakhs.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—It is 76 lakhs. 79 lakhs includes Manipur.

SRIJUT NILMONI PHUKAN:—What is the population of the Assam Valley?

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—The population of the Assam Valley is 3,991,682.

Now the population of Sylhet is 2,541,341, therefore the balance, *i.e.*, the population of the Assam Valley, Hill districts and Cachar is 5,064,389. After deducting the population of the Hill Districts 751,828 we get only 4,313,061. This includes tea-garden population which are neither Assamese nor within the Government of India Act nor have they have been enfranchised. They number 922,245. Deducting them we get 3,390,816. I have excluded the tea-garden population for another reason as well. They are a floating population and there is annual immigration and repatriation. Sir, the hon'ble mover of the resolution said that the population is daily growing and therefore he expects that in no time, we will make up the deficit. I will satisfy him that it is not so. From the figures from 1891 census to 1921, he will find that in spite of the very accelerated increase of our population on account of immigration of Mymensingh settlers, the rate of progress for this large tract of 20,000 square miles, is only 50,000 annually. In the 1891 census the Brahmaputra Valley

contained 2,449,782 souls; now it has 3,991,682, so in 30 years the population has increased by about 15 lakhs, which gives you an average of 50,000 annually. Sir, if we take 43 lakhs as the present population of the rest of Assam, and not 33 lakhs as I have calculated excluding the tea-garden population, to make up a population of 7 millions we will require at least another 50 years. I would request the hon'ble members again to seriously consider whether our rate of acceleration in the population is sufficient to enable us to have a very rosy view that the Government of India is going to accede to our request. In spite of the taunts which my friends will hurl at me—(there are indications which lead me to take a very pessimistic and not an optimistic view) I am constrained to oppose the resolution because I think that self-preservation is a virtue which is to be more preferred than the new-fangled principle of self-determination.

Sir, I have so far spoken on the general view of the question. If I remember aright—I am speaking without the proceedings—His Excellency the Governor in proroguing that session of the Council which passed the last resolution about the transfer of Sylhet and Cachar to Bengal, distinctly said that we would be pointing the way to other people. If we allow Sylhet to go, on what basis or principle could we stop Cachar and Goalpara also from going? Most probably every hon'ble member has received a very heavy booklet from the Raja of Gauripur who seems to have left no year pass by without pressing the claim of Goalpara to be transferred to Bengal. Sir, I would request the hon'ble members from the Assam Valley again to consider, whether if Cachar and Goalpara agitate to be taken away from them on the same principle of self-determination which my friends from the other Valley are urging and they are supporting, with what face can they say that they would not allow Cachar and Goalpara too, to go? And if these two districts are taken away what will be their position? The population of Goalpara now is 762,523 and the population of Cachar, 527,282. These two districts together make up a total of 1,300,000. If we take away these thirteen lakhs from the thirty-three lakhs which I have arrived at after deducting the tea-garden population, what remains is only the paltry twenty lakhs of people in Assam. Sir, I would request the hon'ble members to take a long view of the matter and explore not only the rosy side but also the thorny side of the question, whether this is not possibly the thin end of the wedge—I think Mr. Roffey used that phrase in the first debate on this question—and eventually we will not be compelled to part with Cachar and Goalpara; and then what will remain of the rest?

Sir, I would not be true to the vote of my constituents if I did not address my Muhammadan friends on the Moslem point of view. Sir, I find that the position of the Muhammadans in this province is that of a respectable minority. We form about one-third of the population now. Although we are a minority we can attain to be a telling minority, for, if we combine with any other single party in the Council we can turn the balance in any

direction we like. The census figures show that in the Sylhet district there are 1,099,745 Hindus against 1,433,390 Muhammadans. On the other hand in the Assam Valley there are 2,648,932 Hindus against 594,951 Muhammadans, that is, we form nearly one-fourth compared with the Hindus. Unfortunately through a mistake in nomenclature used at the time of the Reforms, our franchise has been divided into Mussalmans and non-Mussalmans. Therefore my friends of the other community get the advantage of the Animistic numerical strength, in other words, the benefits from the numerical strength of the Animistic population which is counted amongst the non-Moslems. Sir, of these 594,951 Muhammadans in the Assam Valley, it will surprise I suppose my friends in that Valley, to hear that 316,490 comes from the district of Goalpara alone. If in the future we allow Goalpara to go away—and I say we cannot stem the tide once we allow it to run—there will be only 250,000 Muhammadans against 2,600,000 of our Hindu brethren, that is we will at once be relegated to the position of being one-tenth in the numerical strength of the population. I would request all my Muhammadan friends very seriously to consider, whether of this Valley or the other Valley, how they should give their vote on this resolution. It might be urged by my Muhammadan friends of the other Valley that they are going to a province which has got a Muhammadan majority. I have calculated that as well. The present percentage of Muhammadans in Bengal is 52·5 and by the addition of these fourteen lakhs of Muhammadans of the Sylhet district the position is changed from that of 52·5 to 53 per cent. only. If by their going to Bengal, they could raise the scale of the Muhammadans there, to an appreciable extent we could say, '.very well, you better go, although we might suffer, and have a kindly look towards us, so that we can combine with our Hindu brethren and ask them to give us something more than our numerical strength would entitle us to, in view of the fact that in Bengal the Muhammadans agreed to have, in spite of their 52·5 per cent. strength, only 40 per cent. representation in the services as well as in the self-governing institutions'..... (The Hon'ble the President:—As the time is up I think the Hon'ble Member had better finish his speech soon). One minute, Sir, if I find that this is not going to be, that is, the going over to Bengal of our Muhammadan friends of Sylhet is not going to turn the scale there even, I would request them again sincerely to consider whether it will be the brotherly feeling which is inculcated in our Holy Book, to leave us in such a helpless position in this Valley and not to care a jot for us.

I would not go into the historical details as the Dewan Sahib has already pointed out that till recently, although not within a hundred years, but within two or three hundred years Sylhet formed part of Assam.

KHAN BAHADUR ABUL FAZL AHMAD:—Sir, I rise to put in a few words in connection with the important question which

is now before the Council. I have given considerable thought to this question, and have taken pains to study the arguments that have been adduced for or against the proposed transfer of the district of Sylhet to Bengal. I confess I remain unconvinced as to the propriety of this transfer. The measure is neither necessary nor desirable. So far no reasoned case has been made out as to the necessity of the measure. The district of Sylhet has been justly and generously treated and nothing unfavourable has happened within my knowledge that warrants a resort to the measure which is the subject of discussion to-day. The measure does not seem to be desirable, for, in my view it will not be in the interests of any of the parties concerned.

I quite sympathise, Sir, with the desire of an important section of the people of Sylhet to cast in their lot with the people of Bengal on grounds of racial and linguistic affinity, but I hope to be pardoned, Sir, when I say that there appears to be more of the warmth of sentiment than the coldness of reasoning behind the whole movement. I doubt very much if Sylhet when incorporated with the Chittagong Division of Bengal will receive the same measure of attention in the larger province as it has been receiving in Assam. The representatives of the Sylhet district in the Legislature of Bengal will certainly be a very small fraction of its total strength, and imagination need not be stretched for realising how difficult of fulfilment would be the local needs of Sylhet amid the numerous conflicting claims each asserting its precedence over the rest.

Nor do I think that the Assam Valley people will be really benefited by the transfer. Whether Sylhet is or is not a deficit district I leave to financial experts. If it is not, well, the contention that the province in the event of the transfer of Sylhet would save much of the good money that otherwise goes to square the accounts of the district of Sylhet loses its force. If it is a deficit district the financial gain which is likely to accrue in the event of Sylhet leaving us would be neutralised, in a large measure, by the possible—or should I say, probable—reduction of the status of the province and the consequent loss of its political importance.

When the question was last discussed on the floor of this House, many of my colleagues, I fancy, expressed their agreement with the proposal of transfer of Sylhet on the understanding, implied or expressed, that the transfer would not disturb the status of Assam as a Governor's province. To-day we are not in a thick mist, we see better. We have not before us any assurance from any quarter as to the continuance of our present status under the Reforms Act. On the contrary the letter of the Government of India rightly construed discourages the entertainment of any hope as to the continuance of the present status when the province would be reduced both in area and population by reason of the transfer. It behoves us, therefore, to approach the question in no light mood to avoid any false step and to court no risks.

Looked at from the communal point of view, Sir, the transfer would not come as a blessing to the Muhammadans. Our provincial percentage of population is 28 and the percentage of the Muhammadans of the Assam Valley to the total population of the Valley is 14. It is therefore easy to see how the proportion of the Muhammadan community will, with the transfer of Sylhet, be considerably lowered. Despite the platitudes of the opponents of communal representation the fact must be faced and recognised that minority is always at a disadvantage. Our share in the public services and in the administrative and legislative machinery of the province will doubtless be considerably reduced, while our Muslim brethren of the Sylhet district will have nothing to gain on the score of numbers.

Our brethren of Sylhet finds us unwelcome companions. They want to go to Bengal. Bengal has also opened her arms to receive them. So far as I have been able to gauge the feelings of the members of our Council it seems clear that most of them will not stand in their way. So far so good. Then let them all go root and branch to Bengal along with the district, vacating their offices under the Government in Assam in favour of the children of the soil (*A voice:—Hear, hear*) following the policy 'Assam for the Assamese and Bengal for the Bengalis'. Why should they be allowed to remain with us from when they want to separate? If all the elements of Sylhet already in Government service in Assam cannot be taken over to Bengal all at once, one year's time at the utmost may be allowed (*Hear, hear, and laughter*). I want an assurance on this point from Government. If the Government are unable to give us such an assurance I oppose the proposal on this ground as well.

Sir, lastly I fail to appreciate the desire evinced in certain quarters of influencing the imagination of the people by high sounding phrases like self-determination. The high principle of self-determination is not a synonym for separation any more than patriotism is for parochialism; an endeavour to apply the principle to the present case is to carry it to its logical extremity. In these circumstances, Sir, I am unable to give my assent to the proposed transfer of Sylhet to Bengal.

SRIJUT NILMONI PHUKAN:—Sir, I did not mean to speak, but I find that after so much debate I cannot conscientiously give a silent vote. When I came to this Council for the first time in 1921 I heard a distant voice of 'Back to Bengal' from my Sylhet friends. It was a sort of cry in the wilderness then, but to-day we find it has echoed and re-echoed in this Council Chamber. So, whether at this stage we can wisely say that we shall either obstruct their going to Bengal or we shall be able to keep them with us for all time to come is a point to be seriously considered. The question has become almost their own. It has no concern with us in the Assam Valley except in so far as it will affect or likely to affect us by this transfer.

I have heard with great attention the arguments that have been advanced by the Hon'ble Mr. Saadulla against this proposal of my Sylhet friends. He has quoted paragraphs after paragraphs from the Despatches of the Government of India and the Joint Committee's recommendations. But from the very arguments which he has put forth to-day it appears to me that what was dreaded in 1919 may not be dreaded to-day (*A voice:—certainly*). We find in that year the Ruler of the province had the greatest doubt as to whether the reforms would work in this province even with Sylhet. He opposed it and to-day just a few hours back we have heard from the lips of no less a personage than His Excellency the Viceroy who was pleased to say that the reforms have worked well in this province. So the same arguments cannot hold good for all time to come. If other countries with a population not larger than that of this province can think of a dominion status, can think of a separate Parliament, can think of self-determination, I for myself for the moment do not entertain the doubt whether with or without the Surma Valley, the people of the Assam Valley will be able to stand on their own legs, if they are allowed to grow, if they are allowed to develop. This small province of Assam, the Assam proper, in ancient times ruled a kingdom of their own with their own king, held the major portion of Eastern Bengal in fee. Why then should it not be possible for the Assam Valley to develop themselves if they are allowed to do so? But thereby I do not mean that the Surma Valley should go to Bengal. It is not my proposal, it is neither the proposal of the Assam Valley people. But how can we help it if they are determined to go back to Bengal? Whether on sentimental grounds or on any other grounds it is not our concern to say that they should not go. If we at the present moment ought to stand on some other ground as a nation rather than on social or linguistic then I for myself cannot see why the question of race, creed, community should stand in the way of national growth. If as the Hon'ble Mr. Saadulla has already said that this question apart from the question of the status of the province after Sylhet goes to Bengal will have to be determined on communal basis, then there will be another difficulty. He has put the figure that in this valley the proportion of Muhammadan element is very small. That is quite true. There are 26 lakhs of Hindus whereas there are only 5 lakhs of Muhammadans. But that does not stand in the way of national solidarity. What do we find in this Council to-day? I am glad to say that in spite of this minority we find two Muhammadans of our valley (*hear, hear*) adorning the Government Bench and we are proud of them, whereas in spite of the larger Muhammadan element in the other valley we find only one Muhammadan gentleman occupying the presidential chair. These figures after all will not be allowed to decide this larger question. The only question is if my Sylhet friends really like to live with us here, they are quite welcome. But after all they are quite unwilling to stay here, then what is the use of holding them back (*hear, hear*)? It must be dealt with in this way. Suspense is

worse than death. We do not like to live in this suspense. Whenever any larger question comes, these questions do crop up whether we should vote for 10 lakhs of capital expenditure for the Murarichand College, Sylhet, when Sylhet is going to Bengal. Again my Sylhet friends think what will be the use of raising the status of the Cotton College to a University. Certainly, Sir, we cannot go in this way. We must be frank here.

It is no use having patch-work. If that is their feeling we must respect it. That is what I feel.

Then as regards the population, my Hon'ble friend has already pointed out that when that despatch was sent in 1919 the population of this valley was 30 lakhs. To-day what is the number? (The Hon'ble Maulavi Saiyid Muhammad Saadulla—39.) Then it is 33 per cent. increment within these years. If 33 per cent. of Sylhet go away, we again get 33 per cent. within these years and considering the vastness of this province and considering the on rush of immigrants from other parts of the country and considering the coolie population who, I am happy to say, have for the most part settled here, I am not afraid at all on the score of population. I do not believe in number. Everything will depend on the standard of the people. But even taking the number into account I do not think that it will be a very insignificant province. There are countries which are quite independent ruling their destinies independently of any such question of population. So on that account I am not at all anxious.

As regards other points which have been raised by my Hon'ble friend regarding Goalpara and Cachar, these questions can never come up in this debate. It has distinctly been said by the Government of India that the question of the transfer of Cachar should be closed. As regards the question of Goalpara we do not care a bit about the voluminous document of the Raja of Gauripur in this connection. The Raja of Gauripur or any Zemindars are not the nation. It is the mass people who must hold the destiny of the nation. It is a few interested Zemindars who might have expressed their opinion; that does not matter whether we should be hear or there. Bengal cannot claim Goalpara to be theirs. Goalpara never formed part of Bengal. If for political reasons it has been a part of Bengal for some time, it is no reason why Goalpara should go to Bengal. If that argument is to hold good to-day we can claim Jalpaiguri, Rajshahi, Bogra, etc., to-day as those places once formed part of the mighty kingdom of Kamrup. Why those places should not be given back to Assam now? So these questions cannot come at all. We will fight to the last if Goalpara or Cachar be transferred to Bengal or any other place. Nobody has any right upon these tracts because they form part of Assam proper.

The point simply is this—if Sylhet now actually goes to Bengal what will be our position, what will be our feeling over this matter. I personally feel and I believe most of my friends of this valley

feel that if they are really anxious to go to Bengal whether with rhyme or reason or not we must not obstruct them at any cost. It will be of no use. They will drag this matter on in this Council and it will be neither to our advantage nor theirs. We do not want this tug-of-war. We must give a final pull this way or that. Now if Sylhet goes to Bengal, what will be our position? Of course by this resolution which has been moved by my friend Mr. Dowerah we do not tie the hands of the Government of India or our Government in any way. They will be quite free to act as they like even with this resolution or without it. Supposing they give effect to the first part of the resolution, they may not give effect to the second part of the resolution. But that is no reason why we should not express our own views regarding ourselves. That is what we feel. Whether Sylhet be here or not Government should not disturb our present status under any circumstances. That is what we really feel. Governor's status cannot be impaired, that is our unanimous feeling.

With these few words—I do not know what is the resolution before us (*laughter*)—I should be inclined to support the resolution moved by my Hon'ble friend Mr. Dowerah.

The Council was then adjourned to Thursday, the 7th January 1926, at 11 A.M.

B. N. RAU,

Secretary to the Legislative Council, Assam.

SHILLONG:

The 9th January 1926.

RESOLUTION REGARDING REUNION OF SYLHET WITH BENCAL.

THE HON'BLE THE PRESIDENT:—We may now proceed with the discussion of yesterday's resolution. I think there are other members who are desirous of speaking in this motion.

MAULAVI RASHID ALI LASKAR:—Sir, having found some of the members making some reference about the district of Cachar—though I had no mind to speak on this matter again—I cannot help adding a few words in this session.

First of all, Sir, some of the hon. members and specially the hon. mover of the resolution appears to think that the resolution as it is was passed once before but practically it was not so. At first the resolution was passed including Cachar district and unless Cachar were included in that resolution there was every likelihood that that resolution would have been defeated at that time. So the resolution as now sent in is not the same resolution that was passed in the previous session of the Council which carried the motion for the transfer of Sylhet and Cachar to Bengal.

We find now somehow or other that Cachar is left and now again comes the simple resolution for the transfer of Sylhet to Bengal. And so the simple question of the transfer of Sylhet to Bengal cannot be taken to have been passed before. Now seeing that the resolution of the Hon'ble Rai Bahadur Promode Chandra Dutta was published I believe before the present resolution was sent in and I think this present resolution as all other resolutions in the agenda are nothing but so many amendments to the main resolution. The main resolution is whether Sylhet should or should not be transferred to Bengal and all other resolutions are mere amendments. Now if we leave aside the jugglery and play in words in this resolution then we find either this resolution is a simple conditional resolution or a resolution exactly like that of the Hon'ble Rai Bahadur Promode Chandra Dutta simply adding a wish that also separately I believe—that the proper authorities may be very kind to see the fate of the rest of the province afterwards. Now, Sir, practically the resolution as it stands appears to be a conditional resolution but by some sophisticated arguments by the hon. mover of the resolution he appears to let the House understand that it is an unconditional resolution.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—But, Sir, there is no obscurity now.

MAULAVI RASHID ALI LASKAR:—Then, Sir, when the resolution was passed last in this Council the Government opposed the resolution, but still an unconditional resolution was passed in this House, but afterwards when the Government recommendation went to the Government of India a condition was added to that. The Government of India in their letter said that you must say yes or no on a clear unconditional resolution. So this question has again been brought in this Council. Now, if that be so, and if the Government opposed the unconditional resolution before I do not see how the Government benches can take any other view of the matter now than opposing a simple unconditional resolution, and I do not see how the Government benches can take shelter under a condition which has been very unequivocally rejected by the Government of India. The Government benches may either support or oppose an unconditional resolution.

Then, again, I would ask the planter members a few questions. I believe they originally opposed the unconditional resolution—I see some of them have been substituted by new members, but I think they should respect the opinion given by their predecessors, and if that be so, let them see as was appropriately remarked by the hon. Mr. Roffey that this would be the thin end of the wedge, and I shall presently show how it is so. If they opposed the unconditional resolution once they should at least for the sake of consistency oppose the unconditional resolution this time also. They cannot but do so for the sake of consistency. If they now want Sylhet to go one cannot but come to the inference that they want Sylhet to go not for the sake of Sylhet's desire to go but because they see—they cannot but see with the Government of India's letter

before them that the rest of the province will lose the reformed Council—it would lose its representation and responsibility, and that it would be practically a planters' province ruled by a few Indian Nawabs. (*Laughter.*) But I hope my hon. friends will not entertain so low a motive. They are already so benevolent in their nature that they will not entertain any such motive. (*Laughter.*)

Then I want to ask a few questions from my friends of the Assam Valley. The hon. mover who is the leader of the independent party has for the sake of this resolution given up his leadership without taking anybody's advice . . . . . .

SRIJUT KULADHAR CHALIHA:—Are you not a member of this party?

MAULAVI RASHID ALI LASKAR:—That is why I say without consulting anybody, without consulting any member of his party.

Let us see the motive behind his mind. He says that there has always been rivalry between the two Valleys.

BABU KHIROD CHANDRA DEB:—Has any hon. member any motive in moving a resolution?

THE HON'BLE THE PRESIDENT:—Let the hon. member finish.

MAULAVI RASHID ALI LASKAR:—The hon. mover said that there has always been rivalry between the two Valleys. Did he not hear him say so? (*Laughter.*) He cannot in the same breath say that that rivalry will go as soon as Sylhet goes. There are other districts in the Valley. Some of his friends again supported him in saying that there are other districts in Assam which are absolutely Assam districts. I do not know how they say so. Did they get their districts by conquest? (*Laughter.*) Because according to history the district of Cachar at least did not belong to Assam, though I find that by some mistake it has been said that Cachar is an Assam district. But how is this? The people of Cachar were not conquered. As soon as they accepted the British rule of their own accord it was annexed to Bengal, and it was under the Commissionership of the Dacca Division, and there are records in the Silchar record office to bear this out, and when it came to Assam it came along with Sylhet, and not before that . . . . . .

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Six months before Sylhet.

MAULAVI RASHID ALI LASKAR:—Oh, a difference of six months? (*Laughter.*)

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Cachar came along with the other districts of Assam.

MAULAVI RASHID ALI LASKAR:—Then, Sir, as for the Assam Valley members I may be wrong, but perhaps they are cherishing the idea that when Sylhet goes there will be a unique Assamiya province with *swaraj* therein. Is it within practical politics? Taking Cachar and Goalpara and the big Bengali-speaking population of the two districts I do not see how there can

be a simply Assamiya province unless some coercive measures are taken to force the people to adopt the Assamiya language.

Then, Sir, another point of view. As very lucidly explained by the Hon'ble Saiyid Muhammad Saadulla yesterday, taking the little population of the Assam Valley it would be next to insanity to believe that a Governor's province can be retained for the Assam Valley alone. There may be an increase of population. What sort of population? Tea garden population who have got no votes yet, Mymensinghias who have been described as half barbarous people. With their increase they will maintain the status? Clearly not. (*Laughter.*) This is an illusion which, God forbid, will be removed very soon, and when it has been removed my friends will grieve for that.

There is another peculiarity. I find since the beginning of the discussion of this resolution that my friends of Sylhet having in their opinion attained their objective are keeping a dead silence, I presume because they have realised in their heart of hearts that if they go, the fate of the remainder of the province is sealed. These people want the same status as now. Now, if my friends of the Assam Valley are so charitable as to wish Sylhet to go without having regard to their own fate, whether they will have a Governor's province or a Commissioner's Division, if they be so charitable, personally they may be, but whether as representatives of their constituencies they be so charitable as to wish whatever may come to the rest of the province at least if Sylhet may go is unknown, that may be a different thing. But they say "let us part with Sylhet as friends" but do they really mean it? It would be very little less than hypocrisy to say that "let us part with Sylhet as friends" and not to say "let us get rid of Sylhet." And if they be so charitable, let them I request be so charitable to Cachar also, because the people of Cachar are fearing the very attitude taken by our friends of the Assam Valley, and so they request that if not to-day let my friends to-morrow support their friends of Cachar—to part with them as friends as they are now trying to part with Sylhet . . . . . .

SRIJUT NILMONI PHUKAN:—They are family members.

MAULAVI RASHID ALI LASKAR:—As for the Cachar people, these people have not migrated from the Assam Valley, they have not migrated from the hills, they have not dropped from heaven. The Cachar people are descendants of Sylhet and because they happen to be in a separate geographical limit and because they obstruct a hill district, the Lushai Hills, and for the cost of which the district pays, because of that alone they are to suffer and suffer for the Assam Valley? Their position is they do not want to go to Bengal, their main object is to remain with Sylhet. If Sylhet remains they want to remain, if Sylhet goes to Bengal they want to go also. That is the position of Cachar. (*Hear! hear!*) I represent not only my own constituency but I represent the opinion of the entire district. And one final word to my friends of Sylhet. I have already explained my position. If we can remain with them

here in Assam, well and good; but if they leave us behind forgetting as they have recently managed to forget the case of Cachar through whose aid they got the resolution passed I request that they may not manage to forget the case of Cachar if they go to Bengal again. So, I oppose the resolution.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—Sir, I rise to oppose this resolution on two grounds. Firstly, it is against the spirit of the letter of the Government of India following which this special session has been summoned. Secondly, the majority of the people of Sylhet are not willing to be united to Bengal. While opposing the resolution of Babu Brajendra Narayan Chaudhuri in July 1924 I explained in detail as to the rigorous nature of the Land Revenue Regulation of Bengal, the Tenancy Act of Bengal, the starving condition of the Local Boards and the increased rate of Chaukidari tax. I will not recapitulate them now. But I must mention that Sylhet can very reasonably boast with the neighbouring district of Bengal of having a better and larger mileage of main and village roads, of having better and larger number of dispensaries, of better arrangements for *kala azar* treatment and of giving free primary education. Sir, the House knows the people of Sylhet have been crying hoarse to give them a medical school at Sylhet and we heard very often, on more than one occasion from the Hon'ble Minister in charge of Local Self-Government that he would do his best to give at least a start to the medical school during the term of his office. But, Sir, if we are transferred now, Sylhet can never expect to have a medical school for at least 20 years to come. Sir, the hope of getting a medical school at Sylhet will thus be nipped in the bud. Considering the number of scholarships enjoyed by Tipperah and other neighbouring districts of Bengal both in school and collegiate education and also in medical schools and colleges we are afraid that our scholarships will surely be curtailed if we are transferred to Bengal. Sir, here we have been clamouring and clamouring rightly against the imposition of increased rates of court-fees and we are making proposals to make use of that money to the best advantage of the people for supplying water in rural areas. But, Sir, if we go to Bengal what becomes of us? We get a permanently increased rate of court-fees, a bit higher than even what we are now paying temporarily. These are, Sir, the disadvantages which the people of Sylhet will be subjected to, and under which the masses of the people will be the worst sufferers. Now, Sir, let us see what are the advantages that we are going to get in Bengal to counterbalance the disadvantages narrated above and what heaven and earth will be created for us there. We are told that we would get a wider field for higher political activities in Bengal. But, Sir, having regard to the disadvantages I think the supposed political advantage is of no value. We do not know how far we will be able to make our existence felt in Bengal and make our voice effective in the Bengal Council. These, Sir, are questions which deserve serious consideration; it is very likely that we will be the tail end of Bengal, much neglected and uncared for. Sir, there is a Bengali proverb শ্বশুর বাড়ী মধুর হাড়ি।

It will be seen that many of our friends . . . . .

BABU KSHIROD CHANDRA DEB:—Is he in order, Sir, in making personal reference?

THE HON'BLE THE PRESIDENT:—He is not making any personal reference.

BABU KSHIROD CHANDRA DEB:—He said "শ্বশুর বাড়ী মধুর হাড়ি"।

THE HON'BLE THE PRESIDENT:—Yes, he only said শ্বশুর বাড়ী।

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—I simply said শ্বশুর বাড়ী মধুর হাড়ি।

THE HON'BLE THE PRESIDENT:—That is in order.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—It will be seen, Sir, that many of our friends both in and outside the House who have been leading this agitation for the transfer of Sylhet to Bengal have their মধুর হাড়ি in Bengal. That is why, Sir, they cannot see eye to eye with us and think with us, although many of us pointed out to them the disadvantages which seriously affect the material interests of the people of Sylhet. Sir, I have many Muhammadan friends in Bengal with whom I mix once or twice a year. I consulted with them as to our prospects in Bengal but they did not welcome the idea. The result of voting in the Bengal Council on the question of the transfer of Sylhet to Bengal in December last will show that the majority of the Muhammadans did not support it.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—A good many did.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—But a good majority opposed. Sir, by our going there we do not improve the numerial strength to any appreciable extent and it is very likely that our people will receive a set back for many years to come. I consulted many of my thoughtful Hindu friends. They also agreed in thinking that for some years disadvantage will have to be suffered. Sir, under these circumstances it will be a political blunder to support the transfer by any means or under any conditions and I would therefore request the members of Sylhet to consider the question seriously once again before they go to the lobby. I request them not to be led away by sentiment or by the idea of any political victory or defeat but to look to the interests of the people as a whole. Sir, in spite of the expression of opinion of our representatives in the Council in July last, the Government desired to be satisfied as to the real wishes of the people and started an enquiry. From the Government report it will be seen that Mr. Bentinck, the Commissioner of the Surma Valley, found that the people of Sylhet had no real wish at all to go. He writes that if they have any opinion at all it is the opinion of their landlords and the latest orator of a village meeting. He then remarks further

that there are indications that the feeling against the re-union was growing and was likely to become more vocal. Sir, does it mean that the majority of the people of Sylhet are willing to be united with Bengal. I think it will not justify the Government of Assam to give any indication whatsoever to support the resolution before the House. I think in matters like this a clear and unambiguous expression of opinion in favour of the transfer by the people is absolutely necessary to warrant the Government of Assam to vote in favour of the resolution.

Sir, some people of the South Sylhet Division, Mussalmans and Hindus, have sent in written instructions to me to indicate their unwillingness to the transfer of Sylhet to Bengal and I will read them here.

মহামহোপাধ্যায়,

শ্রীল শ্রীযুক্ত খাঁনবাহাদুর মৌলবী আলাউদ্দিন আহম্মদ চৌধুরী, আসাম গবর্ণমেণ্ট কাউন্সিলের সদস্য সাহেব মহোদয় মহিমার্ণবেষু—

মহাত্মণ ! আমি জনৈক প্রাইমারী স্কুলের শিক্ষক, বিগত ১৯শে ডিসেম্বর বাসুদেব শ্রী মধ্যবঙ্গ স্কুলে আমাদের শিক্ষকসম্মিলনীর এক অধিবেশন ছিল, এই অধিবেশনে শ্রীহট্ট বঙ্গভুক্ত হওয়া প্রয়োজন কিনা এ সম্বন্ধে একটা প্রশ্ন উঠিয়াছিল, তৎপরে ইহাই স্থিরীকৃত হয় যে শ্রীহট্ট বঙ্গভুক্ত হওয়া বিষয়ে যাহার মত নাই তিনি একখানা ফারমে দস্তখত করিবেন। উপস্থিত শিক্ষক সভ্যগণ মধ্যে আমরা অনেকেই নাম দস্তখত করিয়াছি।.....

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—How many signatures?

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—You will see. There are 27 signatures here (At this stage Babu Kishna Sundar Dam was speaking something which was not heard at the Reporters' table). I should not be interrupted like this. I must have liberty of speech.

THE HON'BLE THE PRESIDENT:—He should be allowed to proceed. He should not be interrupted in this way.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—

তৎপরে একটী নাতিদীর্ঘ বক্তৃতা প্রসঙ্গে আমি বলিয়াছি যে শুধু নিজের লাভ না দেখিয়া যাহাতে দেশের সর্ব্বসাধারণের মঙ্গল হয় এরূপ কার্য্যেই সকলের সহানুভূতির একান্ত আবশ্যক, আমার সম্পূর্ণ ধারণা যে শ্রীহট্ট বঙ্গভুক্ত হইলে এদেশের কি লাভ বা ক্ষতি হইবে তাহা অনেকেই

এখনও হৃদয়ঙ্গম করেন নাই। আমরা জানি বঙ্গ প্রদেশের প্রজাস্বত্ব আইন আসাম প্রদেশ অপেক্ষা জটিলতর, সেখানে সরস্বতীর বরপুত্র শিক্ষিত সংখ্যা অনেক বেশী। আসামের একজন মেট্রিকুলেশন পাশ ব্যক্তি তাঁহার এই যোগ্যতায় যে চাকুরী বা সম্মান প্রতিপত্তি লাভ করিতে পারিতেছেন, বেঙ্গলের একজন বি, এ, পাশ ব্যক্তিও সেই সম্মান প্রতিপত্তি লাভ করিতে পারিতেছেন না। কেন না বেঙ্গলে ঘরে, ঘরে, এম্, এ, বি, এ, পাশ করা লোকের অভাব কি? আসামের যে সকল শিক্ষিত মহাত্মাগণ বঙ্গভুক্তির জন্য আর্ত্তনাদ করিতেছেন তাঁহাদের দাবী বর্ত্তমান বঙ্গবাসীর দাবীর পশ্চাতেই থাকিবে। যেহেতু এদেশে সেই দেশের তুলনায় শিক্ষিত সংখ্যা নিতান্ত অকিঞ্চিৎকর।

সাধারণেও একটী কথা বলে যে স্বর্গের কীট অপেক্ষা নরকের প্রভু হওয়া সহস্রগুণে ভাল, সে যাহা হউক আমি এই নীচুমুখে উচু কথা বলিতে গিয়া দেশবাসীগণের এত পরিশ্রম পণ্ড করিতে বা অপ্রীতিভাজন হইতে চাই না।

আপনি একমাত্র আমাদের সুযোগ্য মুখ-পাত্র, আসাম বঙ্গভুক্ত হইয়া যখন সুখে কালাতিপাত করিবে তখন দেশবাসী বলিবেন পরমেশ্বর আমাদিগকে এখন বড়ই সুখে প্রাচীনের রাম রাজ্যের প্রজার মত প্রতিপালিত করিতেছেন, আর যদি তাহার বিপরীত ঘটে তবে হয়ত সর্ব্বসাধারণ বলিবেন যে আমাদের নেতাগণ, শুধু তাঁহাদের নিজের স্বার্থের জন্য বঙ্গভুক্ত করিয়া আমাদিগকে বিপদে ফেলিয়াছেন।

অতএব আমি এই সভার পক্ষ হইতে মহোদয় সমীপে সনির্ব্বন্ধ প্রার্থনা করিতেছি যে শ্রীহট্ট বঙ্গভুক্ত হইলে এদেশের কি লাভ বা ক্ষতি হইবে তাহা সর্ব্বসাধারণের হৃদয়ঙ্গম করাইয়া পরে ভোট সংগ্রহ করিলে দেখা যাইবে এদেশের সাড়ে পনর আনা লোকই বলিবেন আমরা যেমনটী আছি তেমনই থাকি। আমি একজন সামান্য স্কুলের শিক্ষক, অসম সাহস সহকারে মহোদয়ের নিকট লেখনী ধরিয়া যে সকল বেয়াদবি করিয়াছি

তাহা আপনার স্বীয় অমায়িক গুণে মার্জ্জনা করিয়া প্রতিপালিত করিবেন, ইতি।

একান্ত আজ্ঞাধীন—

১৫৪ নং
কামালপুর প্রাইমারী স্কুল,
২২ শে ডিসেম্বর ১৯২ ই ৎ।

শ্রীকামিনীকুমার দেব,
প্রধান শিক্ষক।

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—There is, Sir, another letter written to me containing signatures of 2,000 people. This is from Maulvi Abdul Wadad and Abdul Wahaab:—

"That we are induced by some of our countrymen to approach you to express their opinion that they are not at all willing with the proposal of the 'Sylhet-Bengal amalgamation and to request you on behalf of them to represent the idea that they are strictly against this proposal,' *i.e.*, they are firm willing to remain in Assam.

The signatures of about 2,000 leading members obtained from several gatherings are attached herewith, the receipt of which please acknowledge."

There is a third letter in Bengali from Maulavi Syed Rehanuddin Hussain and Maulavi Zohi Alam Chaudhury.

ছালাম পর নিবেদন এই—

শ্রীহট্ট বঙ্গভুক্তি না হওয়ার জন্য আমাদের এখানে এক সভা হইয়াছিল তাহার কপি এতদসঙ্গে পাঠাইলাম আপনে অনুগ্রহ প্রকাশে আমাদের পক্ষে কাউন্সেলে তাহা জ্ঞাপন করিয়া বাধিত করিবেন, ইতি।

কৌলা,
২৮ শে ডিসেম্বর ১৯২৫।

শ্রীমৌলবী ছৈয়দ রেহানউদ্দিন হুসেন,
ও
শ্রীমৌলবী জহি আলম চৌধুরি।

These, Sir, clearly show, how the people who have been able to realize the issues are thinking. It will be further seen from the report of the written opinion of the Hon'ble Minister for Local Self-Government that he too thought—and sincerely thinks that the transfer of Sylhet will not be to the benefit of the rest of Assam and of Sylhet as well. He gives the figures of the Bengali-speaking population of the province and wrote in his note:—

"The province is therefore essentially a Bengali-speaking province and if Sylhet is to go away why not the rest?"

But now he says, Sir, that Sylhet alone should go. He further says:—

"Again, if Sylhet goes, can the claim of Cachar and Goalpara be resisted? If the wishes of the people and racial affinity are any criteria, these two districts have the same claim as Sylhet."

He writes further:—

Again if Sylhet alone goes, over 23 lakhs of the Bengali-speaking people go away. What about the remaining 12 lakhs? The Bengalees who were the predominant people in the province will at once sink down to a very secondary position. As a Bengali I feel for them and would naturally like to take them with us.

But now, Sir, he wants to go alone. He is now supporting a resolution leaving Cachar and Goalpara behind. Then he feels a great sympathy for the Muhammadans of the Assam Valley and writes:—

"Then, again, if the Muhammadans of the Surma Valley or even of Sylhet go away, the Muhammadans of the Assam Valley will be in a minority and lose the strong position they now hold. I have spoken to some Muhammadan gentlemen of the Assam Valley and they fully realise the danger."

Now, Sir, the House will see which way the wind is blowing. Besides the above he warned the people of Goalpara also. He writes:—

"Minus Sylhet, Goalpara will be the only permanently-settled province in the midst of a number of temporarily-settled districts—the danger is not fanciful and Goalpara knows it."

It will thus appear, Sir, in what mind he gave notice of the resolution for the transfer of Sylhet to Bengal and how he is supporting the present resolution. I would request the hon'ble members of the Assam Valley to see the sincerity of his movement and activities.

Mr. Nilmoni Phukan in his speech yesterday remarked that the separation of Sylhet Muhammadans will not affect the interests of the Muhammadans of the Assam Valley and mentioned that there are two Muhammadans of his valley decorating the Cabinet. I say, Sir, that these appointments are due to the numerical strength contributed by the Surma Valley Muhammadans; otherwise the Assam Valley could not have expected a Muhammadan Minister at all.

Mr. Phukan further made mention of the Viceroy's speech yesterday as to the satisfactory manner in which the Reforms are being worked out in Assam. Does he think that the Reforms have been worked out without Sylhet? Does he not equally remember how His Excellency the Viceroy warned us all to consider the momentus question seriously having regard to all the circumstances, and I would request Mr. Phukan to bear in mind the speech of the Viceroy as a whole.

Mr. Phukan further observed that the loss of 33 per cent. of the population of the district of Sylhet will be counterbalanced by the

emigrants from the Bengal districts. If we mathematically calculate the number of the immigrants for the past years as pointed by the Hon'ble Maulavi Muhammad Saadulla, it will, I think, take about 50 years to have 26 lakhs of people inhabiting the district of Sylhet. Sir, even this calculation is likely to fail for want of lands in the Assam Valley and also for the want of sympathy from the members of that Valley.

Thus having regard to all the circumstances I am strongly opposed to this resolution.

MR. TARAPRASAD CHALIHA :—Sir, although I gave notice of another resolution I would like to speak in support of this resolution and withdraw my own. This resolution is so framed that the Government of India will be in a position to take action on it because as amended by the Hon'ble Rai Bahadur Promode Chandra Dutta the first part is now quite independent of the second part. Of course formerly it was not designed to be independent of the other part but now the wording has set all doubts at rest. But the interests of the Assam Valley will be equally protected by this resolution as by the other one of which I gave notice. It is the general desire of everybody in Assam that for the peaceful administration of the rest of the province the question of reunion of Sylhet should be settled to the satisfaction of the people of Sylhet (*Hear! hear!*). After all the discussions we have heard I have no doubt there is a genuine feeling among all sections of the people of Sylhet to be united with Bengal. Of course Khan Bahadur Alauddin Chaudhuri has read some papers in which a contrary opinion is expressed, but here the decision of this Council will prevail over any opinion expressed outside. And here public opinion of Sylhet is very well represented in this Council. In fact their representation is far higher than the representation of the people of the Assam Valley. So I have no doubt that their members will decide to-day, will represent the real feeling of the people of Sylhet and we have no reason to behind that decision. We have heard a great deal about the advantages which Sylhet will derive by being reunited with Bengal, but now I want to say that the Assamese people also, the people of the rest of the province, will also be benefited by their reunion because although we have never grudged the special advantages enjoyed by our Sylhet brethren in this province, yet we feel that once Sylhet is removed much Government friction will be removed from our Council from within the administration and we shall have a more homogeneous people following common ideals, following our own national ideals and advance on our own lines. I have already said that the conditions of Sylhet are quite different from that of the Assam Valley. In Sylhet the incidence of taxation is only Re. 1-6-0 per head whereas in the Assam Valley the incidence of taxation per head is Rs. 3-2-0. Now if we are to continue like this will it be fair to maintain the incidence of taxation like this in future? At the same time it will be very difficult to adjust the taxation to an equitable basis. Moreover, I have already said we the Assamese are not getting sufficient representation in Council

and if Sylhet is to remain in Assam we shall continue to suffer from this under-representation. Once Sylhet is removed, we shall have a homogeneous people following our own interests.

Now, Sir, fear has been expressed by our Muhammadan brethren of the Assam Valley as to the disadvantages that may result to their community by the transfer of Sylhet. I beg to submit that the Muhammadans of Assam Valley have more interests in common with their Hindu brethren of this Valley than with the Muhammadans of the other Valley. And in these days communal considerations and sectarian considerations should give way before other higher considerations, national considerations. As a matter of fact our Muhammadan brethren of this Valley have very little to complain of. There have always been very cordial feelings between the Hindus and Muhammadans. Even in the election to local Boards we find Muhammadans are fairly elected by Hindu electors. In the Sibsagar Local Board and North Lakhimpur Local Board one Hindu seat in each case has been given to 9 Muhammadan members. This testifies to the general cordial feeling throughout the whole Valley between the Hindus and Muhammadans; and in the matter of treatment by Government also we find that Assam Valley Muhammadans are well represented in all the departments. In future also I think they will have no cause of fear.

Then another apprehension is raised that once Sylhet goes the question of the transfer of Cachar and Goalpara will arise. But I feel sure that there has never been any desire on the part of the masses of Goalpara and Cachar to be united with Bengal and moreever only a few isolated factions may have expressed such opinion, but the masses themselves do not want to go. Those districts have always formed part of Assam and they cannot cite the instance of Sylhet as a precedent. It will not help them in the least. So we have no fear on that account. Thirdly, the the question of status—our Hon'ble Minister for Education has said that the question of status has been dealt with in a co-ordinate clause which is not a condition precedent to the recommendation for transfer. I beg to submit that we do not lose in any way by putting the recommendation in that form because the question of status is not really relevant to the question of the union of Sylhet with Bengal (*Hear! hear!*). However we have to take notice of this because incidentally that subject has been referred to in paragraph 4 of the Government of India's letter. If there had been no reference to that we need not have touched on it at all because we have such a strong case and there are such strong grounds for us to press for the continuance of the present status and for granting us advancement of political rights, that we need not have passed any resolution on that subject at this stage. However since the Government of India thought fit to refer to that subject we as a matter of caution have made reference to that subject now. It is better to err on the side of caution. The reduction of the status of Assam is inconceivable because it would be inconsistent with the undertaking of the Secretary of State that where the working of the Reforms have been

satisfactory further advance would be given by the Statutory Commission. Assam has worked the Reforms satisfactorily for the last six years and no less an authority than the Viceroy himself has acknowledged it. And I do not think that after these six years any retrograde step is possible. The Hon'ble Education Minister also referred to the 9th Despatch and the misery proposals made in that Despatch. However, it must be said that the proposals contained in that Despatch were far in advance of the times in which that Despatch was written. Even in that Despatch the Government recommended an advance on the then existing status. As a matter of fact that 9th Despatch was overruled and we got a status practically equal to the status of Bengal. In future also we have no reason to fear that Government will propose a lower status for us than the neighbouring province of Bengal. If the worse comes to the worst, if such a lower status be proposed then the plains districts can press for union with Bengal. In fact there would be no reasonable cause of fear on that score. Assam has a very glorious history and we had self-governing institutions of our own under the Ahom Raj which was a form of oligarchy. The Assamese people made very wonderful roads and tanks and temples and bridges which even now command the praise of modern engineers. Reinforced concrete work is a modern invention, a modern idea of Western countries. If we go and see the Ahom structures we find reinforced brick work three or four hundred years old. In other respects also the Assamese were an advanced people. They were endowed with a political genius whereby they could keep peace on the frontiers of Assam and they even exacted penalties from the frontier tribes. The Assamese literatures once was a very flourishing literature and embraced all fields of knowledge—science, history and religion. I do not think that in this 20th century the British Parliament will ever think of putting such a people as the Assamese again back in the path of advance, or in any way place obstacles in their way of their development. If we are given a chance even now we shall be able to show our worth, to take a respected place among the nations of India. So I have no fears that the Government of India or the British Parliament will ever take a retrograde step, and for the good of the Assamese and for the good of the district of Sylhet I support this motion.

MAULAVI ABDUL MAZID ZIAOSSHAMS:—Sir, before speaking on the resolution itself I would briefly refer to the Government of India's letter which we have got from Mr. Tonkinson which is relevant to the purpose of the discussion of the resolution itself. The Government of India say in paragraph 6 that the Government of India trust that these conclusions will clear the ground for a final decision of the question in the Assam Legislative Council. Sir, far from clearing the ground for a final decision I would submit this Government of India's letter is a puzzling document. The Government of India wanted that we should pass an unconditional resolution in the Assam Council and then they wanted an unconditional opinion from the Government of Assam itself. But we at the same time can claim the same amount of unconditional reply or

opinion from the Government of India itself. The Government of India have not cleared its position though the issues before them were very simple. The issues were whether Sylhet should be transferred or not, and next whether the status of the province should remain intact or not. These were the two simple issues. The former issue whether Sylhet should be transferred or not I think was decided by this Council, to transfer Sylhet. The Government of India could have at once said " Well, this is our position with regard to the status ". They have not done so and I should say, Sir, it was very improper of the Government of India not to have done so *(hear, hear)*, because this has produced some misgivings in our minds. Had the Government of India said before that this would be their position if Sylhet were transferred to Bengal with the clear issues before us we could have decided at once whether we should vote for the resolution which is being discussed or whether we should oppose it.

Now, Sir, what is the purpose which has actuated the Government of India from not clearing that position? I would submit, Sir, this may be one of the purposes. The year 1929 is drawing near, when all the other provinces of India will clamour for better and higher political rights besides mere status, and Assam being the backward province will think of no other or better political rights than that of the status of the province. If Sylhet is transferred to Bengal then Assam will be busy with no other question but that of their existence and the Government of India sitting on the hills of Simla will smile at us and see how we are pleading and playing into their hands. Sir, 1929 is drawing near and I believe everybody in this House should think thrice and ponder this question before they vote for it. If they find that our status is guaranteed by the Government of India then let them vote with a clear mind, but if they find that their status is not guaranteed, that they are risking their very existence as regards status, I think they should not vote because that would be a pretext of the Government of India. You are now busying yourselves with the status point instead of higher political rights. So I say that before we are assured of our status we cannot vote for the transfer of Sylhet to Bengal. I would ask all my Assamese brethren to think over this question. Then there may be another position of the Government of India that perhaps they are not now in a position to think as to what would be the status of Assam, because we know, Sir, that the attitude of the Government of India with regard to the status will carry very great weight with the Secretary of State and whatever recommendation is made will be given very careful consideration, and there is every likelihood that what the Government of India recommend will be carried into effect by the Secretary of State for India. So, Sir, the Government of India has not given any clear and unconditional reply, and consequently they have no right in the fitness of things to fetter our rights to discuss the matter in the same unconditional way, namely, that unless our status is guaranteed we cannot allow Sylhet to go to Bengal. I think, Sir, this is the position to which we have been driven by the Government of India's

letter. But then, Sir, if we read between the lines carefully there is some despair which arises unconciously in our minds, namely, the Government of India have said that after the population of Assam is reduced in the event of the transfer of Sylhet by 33 per centum they would be unable to state what would be the status. This, Sir, is ominous, and I should think, Sir, the Government of India, say, though not in so many words, that the reduction of the population of Assam which is a necessary consequence of the transfer of Sylhet to Bengal would be a great factor in deciding adversely the question of the status of Assam. I can put no other meaning to these last lines of paragraph 4 of the Government of India's letter which we have received from Mr. Tonkinson. If that is so, Sir, I think we cannot vote for this motion. Then, Sir, we know that before the reforms were extended to Assam some of our authorities was unwilling that Assam should get the full advantage of the reforms, but we got sympathy in some quarters and reforms were extended to us. Now after the transfer of Sylhet our population will be considerably reduced, and I think it will be a pretext with our authorities to say well Assam is already backward, your population has been reduced so you cannot get the status *quo anti* of your province. Now, Sir, to us the question whether Sylhet lose or gain by the transfer is not so very a primary thing as the question whether we who remain in Assam lose or gain by the transfer. The instinct of self-preservation within certain limits guides a man's activities in the most dominant way than any other thing, and the little blessings, little advantages, however small and however insignificant they may be which we have got from a Governor's province cannot be sacrificed to the question of the transfer of Sylhet if our status is impaired. So the question of the transfer of Sylhet to us is a subordinate thing, and in fact we should feel that it should be subordinated to the primary question of the status, and I emphasize once more that unless our status is guaranteed we cannot allow Sylhet to go to Bengal. The position of Goalpara is peculiar. My hon'ble friend Srijut Nilmoni Phukan was saying yesterday in this hall that only the Raja of Gauripur wants to go to Bengal and not others. I have, Sir, this telegram which I have got in my hand . . . . . .

SRIJUT NILMONI PHUKAN:—I rise to a point of order. The question of Goalpara does not arise.

MAULAVI ABDUL MAZID ZIAOSSHAMS:—My friend raised the question yesterday, and so I am only giving a reply. The Hon'ble Minister for Education also made mention of Goalpara.

THE HON'BLE THE PRESIDENT:—He is perfectly in order I think.

MAULAVI ABDUL MAZID ZIAOSSHAMS:—I was saying that this is a telegram from a very influential man of Mankachar to say that the people and public of Mankachar want that if Sylhet is united with Bengal the permanently-settled portion of Goalpara should also be transferred to Bengal. The deputation which waited upon His Excellency the Viceroy at Amingaon consisted of

many persons besides the Zamindars. Srijut Nilmoni Phukan said that because a certain kingdom had within its fold a small portion of people which may differ from the rest of the people on ethnological and on racial grounds, well it has got the right to retain that within its fold. I think that that is not a sound proposition. We know that within the province of Bengal during the time of the Moghuls there were many portions of other provinces, as well as under the British Raj, but in spite of that Bengal has been separated from those portions, and Bengal cannot claim them nor are those people willing to come to Bengal. Ethnological, racial and communal questions are dominating things, and the people have a right to demand where they want to be and where not to be. This is simply a side reference. By the transfer of Sylhet if it is at all affected we lose a substantial amount of people to vote for our political rights and liberties which will be necessary in 1929. So I would ask my friends to ask Sylhet to remain with us till that time because the more the number the greater the support we get to fight for a common fate. So, Sir, I would ask my Assam friends to think about this matter whether Sylhet will be necessary or not by the number of population of Sylhet by the amount of political enlightenment that they possess—of course we are equally enlightened—(*laughter*). So I would ask them to consider this matter whether we allow them to go or not, because we would require their support in education, in enlightenment, in political rights, in 1929, when all other provinces will be getting fuller rights. My sole intention in this speech is to emphasize the question of status, but as the resolution stands and as the amendment that I intend to move stands I think I cannot oppose this resolution either because I feel that there is justice on the side of Sylhet apart from all other questions and also because I feel, Sir, along with the Sylhet people, that the majority of them, there may be a difference of opinion, are willing to go to Bengal, and I think they have got a right of determining themselves where they want to be. Of course when this question is joined with other questions to us it becomes a minor question, but to Sylhet it becomes a primary question. I can neither oppose the resolution nor can I vote for it because Goalpara and Sylhet are the only two permanently-settled districts in Assam, and if Sylhet is transferred Goalpara will feel the pang of separation very keenly. And as regards the administrative advantages which we would have got in common for Sylhet and Goalpara from our rulers if Sylhet would have remained joined with our fate, we cannot claim the same advantages of administration when we will have to fight for them alone. At the same time I submit that the opinion in Goalpara as regards the transfer of Goalpara to Bengal is divided. Of the four Councillors I think the majority are for the transfer but then, Sir, there is a strong minority which cannot be overlooked at the present stage, and my hon'ble friends of the Assam Valley are also strongly opposed to the transfer of Goalpara to Bengal as they think that they have got some claim upon Goalpara, which I deny that they have any (*laughter*). But, Sir, so long as we remain in Assam we have got the right and it is our

privilege that so long as we remain in Assam we must have Assam as a Governor's province. But as I said before I cannot vote on this resolution. It has been split up now. Had it stood in its original form I would have voted for it, because I think it was a conditional resolution and the Government of India cannot expect anything better. So if I get any opportunity to move my amendment I shall vote.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, last evening in spite of the call from my hon'ble friend Rai Bahadur Sadananda Dowerah I refrained from taking anw part in the discussion. But I find this morning that the main issues are being greatly clouded by extraneous matters and grounds which we covered and decided in 1924 are being resuscitated and discussed again. I am therefore compelled by a duty to my constituency and to the district of Sylhet to rise and protest and warn this Council against clouding the true issues. The only opposition so far in this Council to the resolution of Mr. Dowerah has come from some Muslim constituencies—I do not say members—in Upper Assam, and from two Muslim members—in this case I refuse to say constituencies—from Sylhet. I find, Sir, that the feelings among Muslims in Assam proper are sore and my esteemed friend the Hon'ble Maulavi Saadulla feels himself forlorn. I quite sympathise with him in his feeling of loneliness, but I would earnetly ask him to search his mind and see if the reason of his feeling lonely, the true cause of his loneliness is not in his mind. It is not in the small number of his co-religionists in Assam. Can he not feel that he is an Assamese, that he has the same traditions as my hon'ble friend Mr. Kuladhar Chaliha or Maulavi Faiznur Ali. I know, Sir, in this House he once prided himself upon the traditions of old Assam—I believe he spoke of stories of Usha and Anirudha. If he feels proud of these traditions, and as he does speak the language of Assam, I see no reason why he should not own the 46 lakhs of people which will still be left in Assam after the departure of Sylhet as his brethren and not feel forlorn. I feel sure, Sir, the 40 lakhs of the non-Muslims there will receive him as their brother, and I am also quite sure that from the high respect which he commands among the people of Assam generally for his abilities, he will be owned as the leader by my hon'ble friends Mr. Kuladhar Chaliha, Maulavi Faiznur Ali and Srijut Kamakhyaram Baruah. Someone to-day said that there is no chance after the transfer of Sylhet to Bengal of a Muslim entering the Cabinet in Assam. I say, why not? If the communal feeling is got over, if Muslims and non-Muslims can feel like one nation, if they can all feel that they are all Assamese what is there to prevent an able and patriotic Moslem from leading the country and getting into the Cabinet?

Sir, we meet here in this session to discuss the question of the transfer of Sylhet in the light of the issues framed in the Government of India's letter to the Chief Secretary to the Government of Assam. I hope all hon'ble members have carefully read that letter. The Government of India therein say that they have finished the

preliminary enquiry and after finishing the preliminary enquiry they have framed certain issues which must be answered by the Government of Assam and the Assam Council and by the Government of Bengal and the Bengal Council before they arrive at a final decision. Sir, I would remind hon'ble members of this House of the quotation I made from the Montagu-Chelmsford report in 1924 where it was laid down that a clear request from the representatives of the people concerned must come through the local Council before any action can be taken. That showed that before any action is taken, before any enquiry is made, the Government insisted on being sure that there is a real public demand. That assurance was given by the people of Sylhet through their representatives in this Council and I believe they think that the general desire of the people of Sylhet is now a closed question. The Government of India have not made the slightest mention of the desire of the people of Sylhet in their letter although they made mention of the desire of a portion of the district regarding Jaintias and also about Cachar. Implicitly therefore they think that the question, the desire of the people of Sylhet to be included in Bengal, is a closed question. They are not satisfied that . . . . . .

REV. J. J. M. NICHOLS-ROY:—May I ask a question, Sir?

THE HON'BLE THE PRESIDENT:—Yes.

REV. J. J. M. NICHOLS-ROY:—May I know whether it is clearly stated that the Government of India has said that the question of the desire of the people of Sylhet is a closed question?

BABU BRAJENDRA NARAYAN CHAUDHURI:—I am sorry that the hon'ble member missed what I said. I said that by implication, because my argument is this, that in this letter the Government of India say something about the Jaintia Parganas, about the desire of the Jaintia Parganas. They say something about the desire of the people of Cachar, but they say nothing about the desire of the people of Sylhet. Also they say that they have finished the preliminary enquiry. The condition precedent to the preliminary enquiry was that there must be a clear request from the representatives of the people concerned.

REV. J. J. M. NICHOLS-ROY:—There is no clear statement.

BABU BRAJENDRA NARAYAN CHAUDHURI:—No, no clear statement. By implication I take it. If hon'ble members still think that the question of the desire of the people of Sylhet can again be raised in this Council and if they want proof we are quite ready to give them proofs but I am afraid the fifteen minutes now at my disposal will be too short for that. But I hope most hon'ble members have got themselves informed through the press of what have been going on in Sylhet for the last ten years, at any rate for the last two or three years. The reunion committee of Sylhet have made a list of public opinions recently given, that is the opinion given since the month of July 1925. I shall not read it. I shall leave it to some other members to read afterwards. So then it will be seen that most of the influential associations are still

in favour of the transfer. Sir, I shall discuss the issues raised in the Government of India's letter in their sequence. Paragraph 2 makes mention of Cachar. I find, Sir, that Cachar members are very sore. Indeed their feelings towards us, the members from Sylhet, are something like those of a jilted lady but I can assure them that we have not been unfaithful to them. We have tried the best we could for them. When I moved my resolution in this Council in 1924 I had no definite information about the state of public opinion in Cachar. I was given contrary versions. It was for that reason that I refrained from adding Cachar in my original resolution. After coming to this Council the majority of the members from Cachar requested me to accept an amendment including Cachar. I did that with alacrity. After the amended resolution was passed His Excellency Sir John Kerr in addressing this House said that he felt no difficulty about Sylhet but he wanted further light about certain difficulties he felt about the district of Cachar and invited the representatives to come and discuss those points with him. There, Sir, the representatives of Cachar missed a golden opportunity. The difficulty of the Government of Assam was about the Lushai Hills. Again, Sir, I do not know how the difficulty can be solved just now. But if I read the signs and portents of the times correctly I feel almost sure that the Hill districts of Assam will be separated sooner or later and I hope within about five or six years, and when this is done the case of Cachar will be a clear case. Indeed, Sir, I hope then that Assam will be very glad to get rid of Cachar . . . . .

RAI BAHADUR SADANANDA DOWERAH:—No.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I said all the hills. I need not speculate on what will happen six or ten years later, but that is my surmise. But one thing is clear, Sir, that if like Sylhet other districts also want to be cut off from Assam they must do so by mutual consent. The point of mutual consent was laid stress on by the Montford report. This is the easiest solution of the matter and in the case of Sylhet at any rate we are quite happy to have obtained mutual consent. Then Cachar's another difficulty has been that its request to be incorporated with Bengal has been dismissed by the Bengal Council. How that happened I do not know, because I know it is still the cry of Bengal that Cachar should be included. I am afraid that the representatives who pleaded for Cachar did not do full justice to their case.

About the question of deficit we need not discuss it here because it does not much concern this Council. Regarding the Jaintias, the Government of India say they would prefer a geographical boundary between the province of Bengal and that of Assam. I do not know whether a lengthy discussion here on the subject whether the Jaintias historically belong to Assam or Sylhet or what would be the natural boundary between Bengal and Assam if Sylhet is transferred would be of much service to the Government of India. I think, Sir, the best course for the Chief Secretary to the Government of Assam would have been to take one of the members of the Council

of the Governor General of India to the edge of the Jowai Hills and ask him to stand on a precipice on the border and look down upon the plains of the Jaintia Parganas. That would have been the most convincing reply. Anybody who has been to that part of the country will say unhesitatingly and at once that the Jowai Hills are the natural boundary between Sylhet and Assam.

Regarding the status, Sir, it appears that the Government of India's letter is not quite clear as Mr. Ziaosshams has said and it also seems to me that it is contradictory. The Government of India say that they consider that the future status of Assam is a separate question to be decided on its merits after the transfer. But in the same breadth they say that Assam for some time at any rate will remain a Governor's province. I do not know, Sir, how can the two statements be reconciled. How can the Government of India say that Assam will remain a Governor's province unless they have decided that it is to be remained so? If there were any doubt in the mind of the Government of India that the transfer of the district of Sylhet would do any injury to the status of Assam, it would have been their duty to wait for Parliamentary sanction before they with the consent of the Secretary of State can order a transfer. But they say that the question of the status will be decided after the transfer. If there is any doubt that the status of any of the eight major provinces conferred by the Government of India Act is in jeopardy, the Government of India with the consent of the Secretary of State cannot act under Section 60 because being a subordinate authority they cannot act in such a way as to undo the work done by the British Parliament. It would be like a servant after doing a prohibited act going to his master and saying "Sir, I have broken this, please repair it." The instant answer of the master would be "you had no jurisdiction to do it and therefore the thing is not valid". The Government of India's letter seems to have been written in a diplomatic spirit. My suspicion gained strength when I read in the Press a copy of a letter written by Mr. Chanda to Sir Alexander Muddiman and the report of an interview given to Mr. T. R. Phukan by Sir Alexander. Mr. T. R. Phukan says in that letter to the Press that he had a discussion with Sir Alexander about the question of status and ultimately Sir Alexander was obliged to say that there is not much in the reduction of population argument. How could Sir Alexander after being convinced by Mr. Phukan allow his Secretary, Mr. Tonkinson, to write in this letter "they are unable to state whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by 33 per cent.".

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA: —That is not Sir Alexander, but the Government of India.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I know, Sir, that Sir Alexander alone is not the Government of India but I think a responsible member of the Delhi Cabinet would not lightheartedly agree to an argument which he knew and which he

had reasons to believe that he would not be able to support and carry in a Cabinet meeting.

Then, Sir, as to Mr. Chanda's letter Sir Alexander discussed the reduction of population at some length. He asked Mr. Chanda how could the status of Assam be maintained when it is reduced to less than 5 millions. From the trend of that conversation it appears that at least for the time being, Sir, Sir Alexander had some vague idea that 5 millions . . . .

THE HON'BLE MR. A. W. BOTHAM:—On a point of order, Sir. Is the hon'ble member in order in quoting these matters of private conversation?

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, I may mention that these two letters were published in the Press by Mr. Chanda and Mr. Phukan and up to now Sir Alexander has taken no objection to it. Those letters were published about two months ago.

THE HON'BLE MR. A. W. BOTHAM:—It is not a question, Sir, whether the letters were rightly published in the Press. The question is whether the hon'ble member has any right to refer to them in this Council.

BABU BRAJENDRA NARAYAN CHAUDHURI:—May I make a submission, Sir? Communications passing from one public man to another of public interest if published by any of them can be made use of with property in this Council. This is my submission.

THE HON'BLE THE PRESIDENT:—Matters disclosed in private conversation, if any of the parties object, ought not to be published. In this case as the hon'ble member says, one side has published the communications in the paper and no exception has yet been taken, I think it may not be taken as violating the sanctity of private conversation if the hon'ble member refers to this.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, from that letter it appears that 5 millions is just considered as barely sufficient for the Governor's status. I shall presently show to this Council that by the transfer of Sylhet the population of Assam will not be reduced by much more than that. The population of the plains districts of Assam calculated by the Southborough Committee is 60 lakhs. I am taking only the plains districts leaving out the Hill districts which are not within the jurisdiction of the Governor's province of this Legislative Council. According to the 1921 Census the population of the same plains districts is 68·81 and we are told by the Government of Assam in their letter to the Government of India which is part of this Paper Book that since the last census the population has further increased by about $2\frac{1}{2}$ lakhs and by the time Sylhet is transferred—I hope it will take about a year or six months—I expect that the population will be at least 3 lakhs more. Now deduct from 68·81 lakhs the population of Sylhet which is about 25 lakhs.

THE HON'BLE THE PRESIDENT:—I would ask the hon'ble member to finish soon.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I will just finish. Then we get the result as 44 lakhs. Add to this the 3 lakhs of population which have increased since the last census, then we get 47 lakhs. I would like to ask this House in the light of these facts if they think that the population of Assam will be too small for the status of a Governor's province. In answer to a question of mine yesterday it has been stated that no higher authority has yet laid down a minimum population to entitle one province to a Governor's status.

THE HON'BLE THE PRESIDENT:—The Council stands adjourned till 2 P.M.

The Council was then adjourned till 2 P.M. for lunch.

The Council reassembled after lunch at 2 p.m.

MAULAVI MAFIZUDDIN AHMED:—Sir, this question of the transfer of Sylhet is a question of momentous importance and as such I think would be failing in my duty if I did not express my views in the matter. Firstly, as regards the question of status, I do not wish to go into details because that has been thrashed out by other hon'ble members in this House. Secondly, it has been emphasized by the hon'ble mover as well as by several hon'ble members that when Sylhet has been all along clamouring for reunion with Bengal we should not drag her behind us because in that case we will not get progress and will not have any policy finding that she is an unwilling partner. As for myself I cannot understand the soundness of the theory. Sylhet has remained with us for 50 years and in this period we pulled on together well and are still pulling on well. So I cannot appreciate at present the strength and force of the statement that with Sylhet we cannot progress and frame our policy in the near future. Then, again, it has been said that self-determination being the policy of the day it is but fair and prudent that we should not stand in her way in the fulfilment of her desire and destiny. Well, Sir, if this principle is once followed I am afraid that in the near future when the questions of the transfer of the districts of Goalpara and Cachar come up, the Assam Valley members will not have any right to deny the same privileges for our self-determination. Sir, I have been told by several respectable Muhammadan members of the Surma Valley, that they do not want to be reunited to Bengal and in this connection I have also got a telegram from that side. (*A voice*:—From the Surma Valley?) Yes, from the Surma Valley, and this only goes to show that this movement or agitation is not a sincere and honest one. Sir, I would request the hon'ble members of the Surma Valley especially the Muhammadans to seriously consider the condition of the Assam Valley Muhammadan members who will be in a hopeless minority if Sylhet goes, finding no pride of place in the country. It has been lucidly explained by our Hon'ble Minister for Education and I need not waste the time of the House on this intricate problem.

Lastly, I would have no objection to vote for the resolution if Goalpara and Cachar had been included, but at this stage when the question of Goalpara and Cachar is not under consideration I cannot but oppose the transfer.

With these few words I beg to oppose the resolution.

MR. J. C. DAWSON:—Sir, on behalf of the Surma Valley Planting constituency I oppose the resolution. If we are to go we say that Cachar must go as well. I am afraid, Sir, that even if Sylhet is transferred the agitation will still go on. One of the hon'ble members Brajendra Babu as he is known is the prime mover of all this and his great friend Chanda otherwise known to us as Kamini Babu is the next. Once Sylhet is transferred you will see that an agitation will forthwith start for the transfer of Cachar. As to Goalpara I cannot say as I do not know anything about that district. But these are the facts that are personally known to me. And I believe even the masses desire this. I have spoken to people on the Karimganj side and I have asked them who their representatives are, and they did not know even that. They do not know anything at all about the transfer itself. They are perfectly happy as they are and if they do not know even the hon'ble members who actually represent them here in this Council I am sure they do not know anything at all about the transfer.

I therefore oppose this resolution.

SRIJUT MAHADEV SARMA:—

সভাপতি ডাঙ্গৰীয়া,

শ্ৰীহট্ট জিলাক সদক্ষিণ বিদায় দিবৰ প্ৰস্তাব সমৰ্থন কৰাৰ আগতে মই এযাৰ কথা কোৱাটো আৱশ্যক বুলি ভাবিছোঁ। শ্ৰীহট্ট জিলাক আসামৰ পৰা বিদায় দিওঁতে (ইমান দিন টকা দি পুতি) জয়ন্তিয়া পৰগণাও লগতে এৰি দিয়াটোকে দক্ষিণা দিয়া বুলি কৰ খুজিছোঁ। মই এই দক্ষিণা দিয়াত ঘোৰ আপত্তি কৰো। কাছাড় আৰু জয়ন্তিয়াৰ লগত আমাৰ চিৰকলীয়া এটা সম্বন্ধ আছে আৰু সেই সম্বন্ধ আমি সহজে এৰিব নোৱাৰো। মোৰ বিশ্বাস এনে অলপ সম্বন্ধৰ উত্থান ধৰিয়েই ভাৰত চৰকাৰে সিবিলাকৰ চিঠিত জয়ন্তিয়া পৰগণাৰ বিষয়ে বিশেষভাবে উল্লেখ কৰি আমাৰ মতামত বিচাৰিছে। সীমাৰ বিষয়ত আসোঁৱাহ আৰু ভাষাগত আসোঁৱাহ মই আসোঁৱাহ বুলি নধৰোঁ। বৰ্ত্তমানে তাৰ অধিবাসী সকলে আনৰ কথাত ভোল গৈ আন প্ৰদেশলৈ যাব খুজিলেই এৰি দি থাকিলে ভবিষ্যত আমাৰ অস্তিত্ব কত ৰব ভাবি চাবলগীয়া কথা। আমাৰ দুৰ্ভাগাৰ গুণে মাণ মৰাণৰ আক্ৰমনত দেশ ধ্বংশ হোৱাত ওচৰ চুবুৰিয়াৰ হেচাত পৰি আমাৰ মি দুৰ্দ্দশা তাৰ হাত আমি আজিও সম্পূৰ্ণ এৰাব পৰা নাই।

গতিকে আমাৰ অতীত বুৰঞ্জী ভেটি কৰি লৈ ক্ৰমে আমাৰ সীমাৰ দাবী বহল কৰিবহে সময়ত লাগিব। এতিয়া এই কাৰণেই মই জয়ন্তিয়া পৰগণা মোয়াত প্ৰতিবাদ কৰোঁ। শ্ৰীহট্ট যোৱা মই সমৰ্থন কৰিলেও এই ফেৰা আপত্তিৰেহে মই সমৰ্থন কৰিম।

শ্ৰীহট্ট বঙ্গভুক্তি হলে আমাৰ দেশ শাসন সংস্কাৰৰে প্ৰতিষ্ঠিত ভাৰতৰ আন উন্নত দেশৰ শাৰীত ৰবনে নৰব সেই বিষয়ে সন্দেহ উপস্থিত হৈছে আৰু ভাৰত চৰকাৰে প্ৰকৃতপক্ষে সেই বিষয়ে পোণ পতিয়ে একো কোৱা নাই। এই বিষয়ে মাতকৈ বহুগুণে জ্ঞানী আন আন যোগ্য সভ্য সকলে যথেষ্ট ৰকমে কৈছে। মোৰ ক্ষুদ্ৰ বুদ্ধিৰে তাকো সমৰ্থন কৰি আশা কৰোঁ যে শাসন সংস্কাৰে বাইজক কিবা প্ৰকৃত সুবিধা দিলে তাক উঠাই নিয়াটোৰ বিষয়ে আমি কল্পনাৰেও ভাবিব নোৱাৰো। বিশেষ অন্ততঃ এই বিষয়ত আমাৰ প্ৰজাবন্ধু চৰকাৰো আমাৰে মতাবলম্বী। আমি অলপ পিচ পৰিলেও সিবিলাকৰ গতি আন বিষয়তকৈ বিপৰীত নিশ্চয় হব।

যোৱা কালি আমাৰ মন্ত্ৰী ডাঙ্গৰীয়াই প্ৰস্তাবৰ বিৰুদ্ধে দীঘলীয়া বক্তৃতা দিওঁতে বহুতো আপত্তিৰ ভিতৰত সাম্প্ৰদায়িকতাৰ যি আভাস দিলে সেইটো বৰ অশোভন কথা যেন পাওঁ। বিশেষ তেখেতৰ দৰে লোকে আৰু তেনে দায়িত্বৰে সৈতে মন্ত্ৰীৰ গাদীৰ পৰা এনে ভাব পোষণ কৰাটো কেনে সেইটো আপোনালোকেই ভাবি চাওক। আন প্ৰদেশৰ কথা নকওঁ আমাৰ দেশত হলে মুশলমান সকলৰে সৈতে একে আপোন ভাই ককাইৰ দৰে বাস কৰি আহিছোঁ। এনে সৰু ভাব, এনে সম্প্ৰদায়িকতা আমাৰ মাজত নাছিল। এনে নোহোৱা নোপজা কথা এটা আমাৰ মাজত উলিয়াই দোৰ ঘে'ৰতৰ ক্ষতি কৰিবৰ আগন্তুক দেখি আমি আচৰিত হৈছোঁ আৰু আমি এই কথাৰ ঘোৰ আপত্তি কৰিছোঁ। আমি দেখি দুখ পাইছোঁ যে তেখেতক দেখি আমাৰ আন আন মুছলমান বন্ধুৰেও সেই বাটকে লৈছে। তোন ভাবকে লৈ কোনো কোনো 'উৰি আহি জুৰি বহা' আমাৰ কোনো জিলা বাসী লোকে আমাৰ গোৱালপাড় জিলাৰ ভবিষ্যৎ সম্বন্ধেও আমাক সাবধান কৰিব খুজিছে। আদিম অধিবাসীৰ মত সি নিশ্চয় নহয় আৰু হবও নোৱাৰে। কোনো কোনো বন্ধুৰে আকৌ আমাৰ

আদিৰ কাৰ্য্যপদ্ধতিৰ বিষয়ে সাবধান কৰি আমাৰ কেন্দ্ৰৰ প্ৰকৃত মতামত দিয়াত সন্দিহান হৈ যি কথা কৈছে তেখেতে নিজৰ বিষয় কি কব খোজে ?

শেষত আমাৰ চৰকাৰ বাহাদুৰে যোৱা ১৯২৪ চনত গ্ৰহণ কৰা প্ৰস্তাৰ ভাৰত চৰকাৰলৈ পঠাওঁতে ব্ৰহ্মপুত্ৰ উপত্যকাৰ সভ্য সকলৰ ওপৰত এটা আসোঁৱাহযুক্ত মন্তব্য দিছে। চৰকাৰে কব খোজে আমি হেনো খিয়াল কৰিছে out of jealousy শ্ৰীহট্ট বঙ্গদেশলৈ যেৱাত vote দিছোঁ। মই এই মন্তব্যৰ খোৰ প্ৰতিবাদ কৰোঁ। প্ৰকৃততে আমি খিয়াল কৰি নহয় প্ৰকৃত বন্ধুহিচাবেহে সিবিলাকক সহায় কৰা ভাবে vote দিছিলোঁ। সিবিলাকৰ মনৰ ভাব, বহুকালৰ পৰা চলোৱা আন্দোলনৰ প্ৰতি সম্মান কৰিহে সহায় কৰিছিলোঁ। চৰকাৰ বাহাদুৰে আমাৰ যাবতীয় কানতে হিংসা বা খিয়লা খিয়লি ভাব দেখাটো আচৰিত নহয়। সিবিলাকৰ যাবতীয় কাৰ্য্যপদ্ধতি সমৰ্থন নকৰাই বোধ কৰোঁ কাৰণ হবলা।

কোৱা কথাকে দুনাই নকৈ এই দুষাৰ কথাৰে জয়ন্তিয়া পৰগণাৰ বিষয়ে মোৰ মত অটুট ৰাখিও প্ৰস্তাবিত বিষয়ত মই সমৰ্থন কৰোঁ।

SRIJUT BEPIN CHANDRA GHOSE:—Sir, I had a mind to record a silent vote in regard to this resolution but necessity and a sense of duty has prompted me to stand up and speak a few words by way of expressing my views in connection with this resolution. Sir, what I have heard from the hon'ble members who spoke before me in this House yesterday and to-day shows that it is not necessary for me to deal with the subject lucidly and elaborately. Everything in detail has been discussed, and there is nothing left for me which I can bring out that will interest my hon'ble friends in this House. From what I have heard from the hon'ble members for and against this resolution I come to learn that the idea of the transfer of Sylhet to Bengal is not a bad one. Nobody says that our Sylhet brethren are going to do something which is bad for them; they are going to do something good, and no ground has been advanced stating that these people of Sylhet are going to do something which will be ruinous to their interests. They are going to be re-united with a better province where they can expect a better form of Government. Sir, so long Sylhet has been jointly working with us as our brethren. Now if one of our brethren wants to go away from us in order to do something good is it justifiable and is it competent on our part to prevent him, and not to allow him to do that thing which we ourselves consider to be good? Is it wise and reasonable to think that we should go on to do civil war amongst ourselves? It is the time for national advancement and it is not proper to go on fighting amongst ourselves.

Sir, some hon'ble members have given a note of warning to the effect that if we allow our Sylhet friends to go away from Assam then what will be our grounds to prevent people from Cachar and Goalpara from going away from Assam? Although, Sir, in my humble opinion this issue does not arise in the present case still as it has arisen already I should like to say a few words in this connection. Myself being a member from Goalpara would like to say a few words about the existing position of that district. A friend of mine sitting to my left has expressed that from among the 4 members coming from the Goalpara district the majority are in favour of the transfer of Goalpara to Bengal. But, Sir I beg to submit that although one of the members is not present in this House, the hon'ble member guesses his view still although he does not know what would have been his view had he been present to-day here. The absent hon'ble member, I must say, gave his vote in favour of the transfer when this question once came before this House. Moreover, he has shown us a telegram from a particular locality that the people of that locality are anxious to go to Bengal if Sylhet is transferred there. But, Sir, I want to inform my hon'ble friend that the majority of the people of Goalpara are against the idea of the transfer of the district to Bengal. (*Hear*! *hear*!). The Hon'ble Minister Saiyid Muhammad Saadulla said yesterday that the Raja of Gauripur has already published a pamphlet and circulated it among the members about the idea of the transfer of the District of Goalpara to Bengal, but, Sir, this may be the idea of an insignificant minority, *i.e.*, of the Zamindars of that district only, but I have got certain counter-memorials of which I am in possession and which I can show to the hon'ble members, protesting against this idea of a transfer of the district of Goalpara to Bengal by the Zamindars of that district. (*Hear*! *hear*!)

Now, Sir, probably the hon'ble members are aware that this movement by the Zamindars of Goalpara is headed by the Raja of Gauripur, who is by birth an Assamese—he is a Barua. Most probably it is at the instigation of his foreign *amlas* who persuaded him to prepare these memorials and to publish this book.....

MAULAVI ABU AL MAZID ZIAOSSHAMS:—I rise to a point of order. Is the member in order in ascribing motives to the Raja of Gauripur who is not present?

SRIJUT KULADHAR CHALIHA:—This is not ascribing a motive.

SRIJUT BEPIN CHANDRA GHOSE:—The Raja of Gauripur I am sure has been guided by these foreign *amlas* of his who have advised him to join in this agitation. These designing people have no interest to remain in Assam—they have got their homes and children in Bengal, therefore they are persuading these influential minority to set up an agitation on foot for the transfer of Goalpara to Bengal. There are memorials in my possession where the whole sub-division of Goalpara—not to speak of the whole sub-division of Goalpara but a fair portion of the sub-division

of Dhubri also—have signed in the memorial voicing their protest against the transfer of Goalpara to Bengal. So, Sir, I can assure the hon'ble members that the mass of the people of Goalpara have not the least idea of going to Bengal; they would rather prefer to remain in Assam. (*Hear! hear!*).

Another point I beg to urge is that there are two public associations in that district—one in Goalpara and the other in Dhubri sub-division. By this I mean the District Association at Dhubri and the Krishak Sammilani at Goalpara. These associations have not sent in a single communication to the Government stating their reasons or expressing their views for the transfer of Goalpara to Bengal, or asking for a transfer of that district; rather they are remaining silent, but when they came to learn that a spurious agitation was going to be made by a negligible factor they at once raised a protest against that agitation.

Now, Sir, some hon'ble members have expressed their apprehension that if the district of Sylhet is transferred then we shall lose our status. Regarding this point I would simply say, Sir, is it likely that our benign Government, when they have once granted us a boon, would be so unkind to take it away? Is it reasonable to believe that the benign British Government would take away that boon provided that we can satisfy them that we have worked the reforms satisfactorily? So, Sir, there are still full four years remaining. Let us work satisfactorily and unitedly so that we may satisfy the British Government that we are competent to get the reforms even without the district of Sylhet.

Sir, it is not our wish and desire to drive our Sylhet brethern. It is not we who put this resolution, but it is the Sylhet members who are so keenly fighting for the transfer. Sir, it is not that by driving the people of Sylhet we would enjoy Government posts, but it is our sense of duty and the keen desire of the people of Sylhet that prompt us to support their just cause. If they are so keen to go let them go. We should not stand in their way.

With these few words I beg to support this resolution.

Babu BASANTA KUMAR DAS:—Sir, I have listened to the debate with great interest and having marked the favourable attitude of my hon'ble friends from the other Valley towards this resolution I had no mind to take part in this debate; but, Sir, the speech of my hon'ble friend Khan Bahadur Alauddin Ahmed Chaudhuri has compelled me to say a few words. I take my stand to refer to what Hon'ble Khan Bahadur has said; but I cannot also ignore the speech of the Hon'ble Maulavi Muhammad Saadulla. I shall, therefore, say something against some of his arguments also. Hon'ble Khan Bahadur Alauddin Ahmed has given his *ipse dixit* with regard to the opinion of the Sylhet people and also as to the comparative material advantages and disadvantages connected with the question of reunion of Sylhet with Bengal. But, Sir, before he could persuade himself to give his *ipse dixit* he should have taken into consideration that in this

House there are also the representatives of the other twelve general constituencies of the district of Sylhet who have got clear mandates to support this resolution. He should have considered that these so-called advantages and disadvantages to which he attaches so much importance were recounted times without number. And that the people of Sylhet came to a decision that it is their fundamental right to be united with the Presidency of Bengal. Sir, I need not mention the numerous telegrams that we have received from the Sylhet people while sitting in this Council Hall urging us to support this resolution. The Hon'ble Khan Bahadur says that the majority of the people of Sylhet do not wish that their district be transferred to Bengal; but, Sir, even the people of that part of the district called Jaintia Parganas, about which the Government of India expressed some doubts in their letter are as keen in their desire to be incorporated with the Presidency of Bengal, as the people of the rest of the district. Since the publication of the letter of the Government of India dated the 24th October 1925 which is responsible for this debate, the people of the Jaintia Parganas have given unequivocal expressions of their desire in a memorial to His Excellency the Governor General and by resolutions adopted by them in numerous meetings held in different parts of those parganas. They have fully proved that they are both geographically and historically associated with the people of Sylhet for a very long time. They have asserted that if the people of the rest of Sylhet have got a fundamental right to be incorporated with the Presidency of Bengal they have also a right,—an inalienable right to remain linked up with the people of Sylhet under one Administration. And, Sir, so far as the rest of Sylhet is concerned, it is too late in the day now to say that the majority of the people do not want incorporation. Hon'ble Babu Brajendra Narayan has shown that the Government of India in their letter have admitted that so far as Sylhet is concerned a good case has been made out.

Then, Sir, coming to the speech of the Hon'ble the Education Minister, what strikes me is this that he is opposing this resolution simply on the ground that the transfer of Sylhet will entail a loss of status of a Governor's province to the rest of Assam. He has tried his utmost to work up that fear in the minds of the other members and his sole argument has been, if I may call it, the argument of population. One statement in the Government of India's letter to the effect that they are unable to state whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by some 33 per centum has occupied his whole attention and he has elaborated his argument by reference to the ninth report published in connection with the question of Reforms. But, Sir, in spite of the difficulties enumerated in that report Assam was granted reforms. And it has been very properly said by some members that under the new circumstances that have been brought into existence by the working of the reforms, those difficulties will not

count much. It really appears, Sir, that the argument of population has carried the Hon'ble Education Minister too far and made him lose his self-confidence so much so that he has failed to consider calmly whether there are also other grounds— far weightier grounds which may stimulate us in the hope that really the rest of Assam will not suffer in any way so far as the question of the status is concerned. Sir, in stating the effects of this transfer the Assam Government in their letter to the Government of India dated the 11th August 1925 gave some grounds which should dispel all manner of doubt about the status of the province suffering in any way. Those grounds are to be best found in paragraphs 9 and 10 of that letter. Paragraph 9 is to this effect:—

"In Mr. Botham's letter No. 5585-A.P., dated the 30th October 1924, it was stated that if the area and population of Assam were materially curtailed it was doubtful if it could retain its status as a Governor's province. The present area of the province including the hill districts and the controlled frontier tracts and the Manipur State is 77,500 square miles. At the 1921 census the population of this area, excluding part of the frontier tracts where no census was taken, was 7,990,246. If Sylhet were transferred to Bengal the area of Assam would be reduced to 72,000 square miles of which the population in 1921 was 5,448,905. In area, therefore, Assam without Sylhet would be little smaller than Bengal or Bihar and Orissa, but it must be admitted that the population would be much below that of any other major province in India. It must however be remembered that the population of the Assam Valley is increasing rapidly owing to the influx of cultivators from Mymensingh, who are rapidly bringing large tracts of jungle and waste land into a high state of cultivation. During the last four years nearly 100,000 acres of waste land have been taken up by men of this class in the Assam Valley, and the population must have been increased in this way by more than a quarter of a million souls."

Then, paragraph 10 is to this effect:—

"Another important factor is that as Sylhet is a deficit district the province of Assam would on the transfer of Sylhet to Bengal be in a much better position financially than it is at present. It would not merely be relieved of the burden of the Sylhet deficit, but it would probably be possible to abolish one of the existing Commissionerships and also to effect other savings in the cost of administration. Financially therefore the maintenance of the existing system of administration would be a lighter burden on the reduced province of Assam than it is on the existing province. In other respects it would be perfectly feasible to maintain Assam as a major province. The Legislative Council would represent a homogeneous area, while the administration of the hill and frontier districts as backward tracts would not be affected. The cadres of the various services would have to be slightly reduced, but the time-scale of pay now generally in force renders this a matter of small consequence, and the attractions of service in Assam would

be increased rather than diminished by the transfer of Sylhet to Bengal."

Now, Sir, it will be clear from paragraph 9 that the Assam Government wanted really to meet the argument of population and area. It points out very clearly that this province possesses vast possibilities and in case Sylhet be transferred to Bengal the rest of Assam has nothing to fear. Paragraph 10 speaks of the sufficiency of revenue for the purpose of maintaining a Governor's province with regard to the rest of Assam and really, Sir, if the rest of the province contain capable area and sufficient revenues, the question of population becomes a matter of secondary importance. Then, Sir, I may refer also to paragraph 11 of this letter. It also goes to show that the Assam Government maintain that the Assam Valley districts possess so peculiar conditions that it will not be possible, nay—it will not be feasible to make over the Assam Valley districts to the Bengal Government and that they must always form a separate unit for administration. Paragraph 11 is to this effect:—

"If, however, it were held that the reduced province of Assam could no longer retain the status of a Governor's province, the only alternatives would be its incorporation in Bengal or its reduction to the status of a Chief Commissionership with presumably a small Legislative Council acting mainly, apart from legislation, in an advisory capacity, and without Ministers. The Governor in Council is strongly opposed to either alternative, which he is confident would be received with intense dissatisfaction by the great majority of the inhabitants of the Assam Valley. The loss of Ministers and the curtailment of the political privileges granted under the Reforms would be keenly resented while as to the other alternative it is hardly necessary to elaborate the objections to doubling the area of the Bengal Presidency and adding to the cares and perplexities of the Bengal Government the charge of a rapidly developing province with an entirely different system of land revenue and the problems entirely unfamiliar to Bengal, involved in the administration of the Hill and Frontier Tracts." Sir, if the Assam Valley districts should always form a separate unit for administration, is it conceivable that the British Parliament having granted reforms to these districts, having placed the Assam Valley people on the path of progress will cry halt and say 'we shall not grant any further instalments of reforms to this province'. So, Sir, I beg to submit that if regard be had to the vast possibilities of the Assam Valley districts and if regard be had to the capacity of the Assam Valley people then there is no ground for entertaining the fear that really the Assam Valley districts will lose their status that has been granted to them.

Then, Sir, while the Hon'ble Education Minister has advanced this argument of population he has not considered another aspect of the question. Of course, Sir, the population of the province will be reduced by 33 per cent. but, Sir, the consequent reduction in the number of electors will not preclude the possibility of

maintaining reforms in the rest of Assam. The number of electors in the whole of the province is 224,000; after deducting the number of elctors in the district of Sylhet which is about 76,000 we shall still have 148,000 electors in the rest of the province and that will give us a number of electors which will be nearly the number of electors in the Central Provinces and a little below the number of electors in the Punjab. But if we consider, Sir, the possible increase in the number of electors on account of the franchise that we have granted to women, then we shall have a larger number of electors than 148,000. So if we consider this aspect of the question there is no ground of fear.

Sir, the Hon'ble Minister asserted that the instinct of self-preservation is a virtue which should always be preferred to the new-fangled principle of self-determination. The priniiple of self-determination is not a new-fangled principle. The instinct of self-preservation is a virtue which man possesses in common with other animals. But, Sir, the principle of self-determination is really a principle peculiar to human beings and it means self-realisation and self-development. For a full play of this instinct of self-determination peculiar conditions and environments are necessary. The hon'ble mover in moving this resolution did point out that the Assam Valley people by supporting the transfer of Sylhet are really seeking to acquire those conditions and environment under which this principle of self-determination will get a full play and I too appeal to the House to consider if an atmosphere of strife and dissention will be favourable for self-determination either of the Assam Valley people or of the people of the district of Sylhet.

Sir, the argument of the Hon'ble Minister was really a two-fold argument. He first wanted to prove that the Assam Valley as a whole will suffer because the status will be lost and then he wanted to prove that the Muhammadan community, in particular, will be great losers. Now, Sir, some of the speakers who preceded me have taken exception to this argument of his and really, Sir, we are here not to encourage communal feeling and to allow us to guide our deliberations.

Now, Sir, if the justice of this cause be admitted and if the fundamental right of the people of Sylhet be admitted then I do not understand why this bogey of the loss of the status should be so strenously put forward for the purpose of inducing this House to vote against this resolution.

With these few words I beg to commend this resolution to the acceptance of the House.

BABU KSHIROD CHANDRA DEB:—Sir, I would not have spoken on the subject but for some remarks of the Hon'ble Mr. Dawson. He said that he consulted some people of Sylhet district, most probably of the Karimganj sub-division, and he understood that the people of Sylhet do not want to go back to Bengal. Sir, Mr. Dawson, represents a special constituency consisting of 114

electors only but I represent the non-Muhammadan constituency of the Karimganj sub-division—the biggest constituency of the district—including Mr. Dawson and other European electors of Karimganj (*laughter*). Mr. Dawson's view may be at the utmost the view of the planting constituency. I have authority to say that personally he is much in favour of reunion. I therefore represent him more truly in his capacity as a European elector of Karimganj Non-Muhammadan Constituency when I say that the majority of my electors wish for reunion than he himself does. I do not know how many persons out of 25 lakhs of Sylhet people he consulted. Did he ascertain if they were voters and whether they were under the thumb of interested persons? From newspaper writings and from the proceedings of numerous meetings and conferences it can be definitely ascertained that the majority of Sylhet people, both Hindus and Muhammadans, want to go back to Bengal. Even Mr. Gimson, the Deputy Commissioner of Sylhet, in his letter to the Commissioner wrote:—

"With very few exceptions the influential and educated Hindus are strongly in favour of the movement of going back to Bengal. It is unnecessary to go into their reasons; their desire is undoubted. Some of the more cautions ones whose ambition is for Government appointments for their sons and relations are hesitant about the wisdom of taking the plunge; but even they desire it on sentimental, if on no other, grounds."

As regards the Muhammadan population he said that there are sharp divisions of opinion in Sylhet Sadr, the young party being generally in favour of the change and the old party against it (*hear, hear*).

Sir, the Government of Assam deputed the Deputy Commissioner of Sylhet and the Commissioner of the Surma Valley to ascertain the real wishes of Sylhet people. They said that it was very difficult to ascertain the real wishes of the masses. But Mr. Dawson says that he has ascertained the real wishes of the masses. Either the Deputy Commissioner of Sylhet and the Commissioner of the Surma Valley are incompetent officers and deserve to be replaced by a competent man like Mr. Dawson or Mr. Dawson's statement should be taken with 99 per cent. discount. In his capacity as a representative of the Sylhet planters I should like to ask Mr. Dawson one question. The Hon'ble Minister for Education has said that the principle of self-preservation is to be preferred to the new-fangled principle of self-determination. Sir, it is almost a settled fact that sooner or later tea will be and ought to be taxed in Assam to make up the loss of excise revenue. From a letter published in the *Times of Assam* I am reading the following:—

"That in Assam the tea industry is for the present in by far the best position to bear the greater part of it (taxation) will, I think, be the opinion of any one who regard the subject impartially."

Did Mr. Dawson draw the attention of his constituency to this aspect of the question? Did the Hon'ble Mr. Dawson ask his

electors whether they desired to bear this additional taxation? Did he explain to them that by going to Bengal they would simply preserve themselves? If not, he has failed in his duty.

Sir, much has been said about sentiments. So far as I remember, in September session of 1924 when His Excellency Sir John Kerr opened this Council he said that the presence of the Bengali members in this Council Chamber reminds him of Bengal. If that be the sentiment of a highly responsible Government Officer and an Englishman who served in Bengal only for a few years is it unfair on our part to request this House to give due weight and consideration to the sentiments of the 25 lakhs of Bengalees who have been separated from their mother province for half century against their wishes and in spite of their protests?

MAULAVI FAIZNUR ALI:—Sir, I have listened very attentively to all the arguments that have been adduced by the previous speakers for and against the question of the transfer of Sylhet.

In discussing this question I think there are a few facts of which we all must take cognizance. We cannot ignore the fact that Sylhet is geographically a part of Bengal, that the people of Sylhet are Bengalees and that they speak the Bengali language. Accordingly it is only natural and legitimate on the part of the people of Sylhet to have a desire to be united with those of Bengal; rather I should have thought it unnatural if there had not been such a desire on their part in these days of national movements. It cannot but be admitted that the majority of the people of Sylhet, rather I should say, an overwhelming majority of the people of Sylhet are in favour of this union. There is no doubt a section of the people in Sylhet who are against this transfer—but when we find in this Council that out of the 13 elected representatives from Sylhet there is only one who is against this transfer, we must conclude that that section must be numerically very small. Under the circumstances it is only just and legitimate for us to help the people of Sylhet in the fulfilment of their desire.

Some of the hon'ble members have dilated about the advantages that the people of Sylhet have been deriving under this Administration and the disadvantages they would have to incur in going over to Bengal. I think, these are points which it is best be left to the people of Sylhet to decide according to their own interests as they know them far better than ourselves.

Much has been said, Sir, about the principle of self-preservation and self-determination. I also with some reservation subscribe to the theory that self-preservation should be taken due note of before the principle of self-determination.

Several hon'ble members of the Council have sounded a note of warning that if Sylhet be transferred to Bengal then there is every apprehension of the status of Assam being lowered. The Hon'ble Maulavi Saiyid Muhammad Saadulla in an elaborate speech full of statistical details has given his reasons for such an apprehension I must also say that I share in the apprehension

and I do admit that almost all his reasons are incontrovertible. He has quoted from the despatch that the Government of India had sent in the year 1919 regarding Assam. But it should be remembered that political events since 1919 have moved very fast. Assam is no longer that sleepy hollow which it was in the year 1919. Immediately after that year the people of Assam have shaken off their lethargy and indifference and have come forward to take their share and have marched hand in hand with the rest of India in the great movement that has convulsed and transformed the whole of India. Whatever opinion India Government might have had in the year 1919 I believe that opinion has now undergone a change. It has been said that although the Government of India in that despatch had recommended only a limited form of reforms for Assam, it was only on account of some sympathy in some quarters that this full status of a major province has been granted to Assam. I should remind the hon'ble members that this is not a fact. It was on account of a deputation sent from Assam and consisting of Srijut Nobin Chandra Bordoloi—and Srijut Prasanna Kumar Barua—who placed the case of Assam before the Parliamentary Committee that this status was accorded to Assam. The status of a province does not depend upon the numerical strength of its people but upon their political importance and their moral stamina (*hear, hear*). I cannot conceive that in these days when the whole of India is demanding and making such a stupendous effort for self-government, for full responsible government, for *swaraj*, the Government of India shall have the hardihood of even depriving Asasm of that crumb of self-government that they had given to her. But if the worst happens, if the Government of India do really propose to take away our status, I believe that our people of Assam will rise up to the occasion and will assert themselves and in that struggle they will be backed by the whole of the rest of India in general and by the people of Sylhet in particular.

The Hon'ble Maulavi Saiyid Muhammad Saadulla made an appeal to the Muhammadans of our Valley.

I do admit that by the transfer of Sylhet the numerical strength of the Muhammadans would be considerably reduced but I repeat, Sir, that the status of a community within a nation does not depend upon its numerical strength but upon its political importance (*hear, hear*). If we Muhammadans of Assam run shoulder to shoulder with our Hindu brethern in our political career towards the attainment of the goal of Swaraj I do not think that we shall be left in the lurch (*hear, hear*). But whatever be the effect it is incontrovertible that whether we wish Sylhet to remain with us or not in order to raise the numerical strength of the Muhammadan community it is a fact that the Sylhet Muhammadans are not willing to remain here because I find that out of the seven Sylhet Muhammadans there is only one who is against this transfer of Sylhet. So whether we wish it or not it is a fact that the Sylhet Muhammadans do not like to remain here in order to raise our numerical strength. So we are helpless rather in this condition even if we

did wish to retain our numerical strength with the retention of Sylhet.

I do not wish to say anything further on the subject the question of Goalpara or any other district as I do not think these issues are to be raised at this stage and as such, Sir, I support this resolution which has been moved by my friend Rai Bahadur Sadananda Dowerah.

RAI BAHADUR BEPIN CHANDRA DEB LASKAR (spoke in Bengali):—

সভাপতি মহাশয়!

শ্রীহট্টের বঙ্গভুক্তি সম্বন্ধে আমি ২।১টী কথা বলিতেছি। ১৯২৪ ইংরেজির জুলাই মাসে কাউন্সিলের যে অধিবেশন হয় তখন আমি শিলং থাকিতে শ্রীযুক্ত বাবু কামিনী কুমার চন্দ উকিল মহাশয় এবং আরও শ্রীহট্ট বাসী কাছাড় প্রবাসী ২।৩ জনা সম্ভ্রান্ত ভদ্রলোক, যাহারা শিলচার হইতে আমাকে আসাম কাউন্সিলে শিলচারের প্রতিনিধি স্বরূপ পাঠাইতে বিশেষ চেষ্টা করিয়াছিলেন তাঁহারা আমাকে বলিয়াছিলেন যে শ্রীযুক্ত ব্রজেন্দ্রনারায়ন চৌধুরী মহাশয় শ্রীহট্ট এবং কাছাড় বঙ্গভুক্তি হওয়ার জন্য আসাম কাউন্সিলে প্রস্তাব করিবেন আমি যেন তাহার সমর্থন করি। শিলচারের স্থায়ী বাসীন্দা সম্ভ্রান্ত ব্যক্তি কয়েকজনকে আমি এই বিষয় জিজ্ঞাসা করায় তাঁহারা বলিয়াছিলেন যে আসামে থাকিতেও তাহাদের অসম্মতী নাই তবে শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়েরও বঙ্গভুক্ত হওয়া একান্ত কর্ত্তব্য ইহাতে আমি বুঝিয়া ছিলাম যে শ্রীযুক্ত কামিনী কুমার চন্দ উকিল প্রভৃতি মহোদয়গণের মতের সঙ্গে শিলচারবাসীর মতের শেষাংশের মিল আছে অর্থাৎ শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়েরও বঙ্গভুক্ত হওয়া দরকার। তাই আমি শ্রীহট্ট ও কাছাড় বঙ্গভুক্তির প্রস্তাবে সমর্থন করিতে শ্রীযুক্ত বাবু কামিনী কুমার চন্দ মহাশয়কে সম্মতি দিয়াছিলাম কিন্তু শিলং পহুঁছিয়া রিজলিউসনের কপি পাইয়া দেখিলাম যে তাহাতে কেবল শ্রীহট্টের বঙ্গভুক্তির প্রস্তাব, কাছাড়ের কথা নাই। সুতরাং আমি এই প্রস্তাবে কোনও পক্ষে ভোট দিব না বলিয়াছিলাম। পরে কাছাড় যোগ করিয়া সংশোধনীয় প্রস্তাব গৃহীত হইলে আমি সংশোধিত প্রস্তাবের পক্ষে ভোট দিয়াছিলাম। এবং প্রস্তাবটী carried হইয়াছিল। এখন আবার কেবল শ্রীহটের বঙ্গভুক্তির প্রস্তাব নিয়াই বর্ত্তমান কাউন্সিলের অধিবেশন

সুতরাং কাছাড় আসামে থাকিয়া শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়ের যে কি কি অসুবিধা হইবে তাহার ২।১টী আমি বর্ণনা করিতেছি। শ্রীহট্টের সেসন জজ ও সব-জজ কাছাড়ের সেসনের মকদ্দমা ও ফৌজদারী আপিলের ও দেওয়ানী বড় বড় মকদ্দমার প্রথম বিচার এবং আপিল শুনেন, শ্রীহট্ট বঙ্গভুক্ত হইলে তাঁহারা আর কাছাড়ে আসিবেন না সুতরাং কাছাড়ের সেসন ও বড় বড় দেওয়ানী মকদ্দমার প্রথম বিচার ও আপিল শুনার ভার ডিপুটী কমিসনার সাহেবের উপর পড়িবার সম্ভব। ডিপুটী কমিসনার শাসন বিভাগের কর্ম্মচারি এবং এই কাজই তাঁহার খুব অধিক তাহার উপর আবার বিচার ভার পড়িলে তিনি বিচার কার্য্যে তত বিশেষ মনোযোগ দিতে পারিবেন না সুতরাং বিচার কার্য্যে ভাল ফল হইবার সম্ভাবনা নাই। শ্রীহট্ট কাছাড়ে শিক্ষা বিভাগে একজন ইনিস্পেক্টার। শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়ের জন্য একজনা ইনিস্পেক্টার থাকা সম্ভবপর নহে। শ্রীহট্ট কাছাড়ে এক জনা কমিসনার। শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়ের জন্য কমিশনার থাকিবেন না, সম্ভবতঃ কাছাড় গৌহাটীর কমিশনারের এবং ইনিস্পেক্টারের এলাকাভুক্ত হইবে ইহা কাছাড়বাসীর জন্য মঙ্গলজনক নহে। সুতরাং শ্রীহট্ট এবং কাছাড় কিছুতেই পৃথক থাকিতে পারে না। এখন কাছাড়বাসীর প্রতি শ্রীহট্টের নেতাদের ২।১টী ব্যবহারের কথা আপনাদিগকে বলিতেছি।

প্রথমত শ্রীযুক্ত ব্রজেন্দ্রনারায়ন চৌধুরী মহাশয় কেবল শ্রীহট্ট বঙ্গভুক্তি হওয়ার জন্য প্রস্তাব করেন তাহাতে কাছাড়ের কথা ছিলনা সেইজন্য আমি তাঁহার প্রস্তাবের বিরূদ্ধে বলিয়াছিলাম ইহাতে যখন তিনি বুঝিলেন যে কাছাড়ের মেম্বর এই প্রস্তাবের পক্ষে ভোট দিবেন না তখনই কাছাড় যোগ করিয়া সংশোধনীয় প্রস্তাব করার সাব্যস্থ হয় এবং শ্রীযুক্ত রায় সাহেব হরকিশোর চক্রবর্ত্তী সংশোধনীয় প্রস্তাব করেন এবং তাহা গৃহীত হইলে আমিও তাহার পক্ষে ভোট দেই এবং সংশোধনীয় প্রস্তাব carried হয়।

পরে বাঙ্গলা কাউন্সিলে শ্রীযুক্ত অখিলচন্দ্র দত্ত উকিল মহাশয় কেবল শ্রীহট্টের বঙ্গভুক্তির প্রস্তাব করেন। কোনও কাছাড়বাসী তাঁহাকে

কাছাড় বাদ দিবার কারণ জিজ্ঞাসায় তিনি বলিয়াছিলেন যে শ্রীহট্টবাসীর অনুরোধেই তিনি এই প্রস্তাব করিয়াছিলেন এবং শ্রীহট্টের নেতাগণই এই প্রস্তাবের মুসাবিধা করিয়া দিয়াছিলেন সুতরাং কাছাড় বাদ দেওয়ার জন্য তিনি দোষী নহেন।

লেজিসলেটীভ এসেমব্লিতে শ্রীহট্ট কাছাড় বঙ্গভুক্তির প্রস্তাব হয় পরে শ্রীযুক্ত কামিনী কুমার চন্দ মহাশয় কাছাড় বাদ দিয়া কেবল শ্রীহট্টের জন্য প্রস্তাব করিয়াছেন। সুতরাং দেখা যাইতেছে যে শ্রীহট্টের নেতাগণ বার বার কাছাড়কে বাদ দিতেছেন তবে আসাম কাউন্সিলের সংশোধনীয় প্রস্তাব গৃহীত না হইলে আসাম কাউন্সিলে রিজলিউসন carry করা কঠিন হইত বলিয়া ইহা গ্রহণ করা হইয়াছিল বাঙ্গালা কাউন্সিল বা লেজিস-লেটীভ এসেমব্লিতে কাছাড়ের কেহ নাই বলিয়া কাছাড়ের কথা এই দুই কাউন্সিলেই ছাড়িয়া দেওয়া হইয়াছে। শ্রীযুক্ত বাবু কামিনী কুমার চন্দ এসেমব্লিতে কাছাড়েরও প্রতিনিধি হইলেও শ্রীহট্টবাসী। কাছাড় সঙ্গে রাখিলে শ্রীহট্টও বঙ্গভুক্ত হইতে পারিবে না ভাবিয়া তিনি কাছাড় বাদ দিয়াছেন।

এখন শ্রীহট্টের নেতাগণ বলিতেছেন যে এখন শ্রীহট্ট বঙ্গভুক্ত হইলে পরে তাহারা কাছাড়কেও টানিয়া নিবেন কিন্তু তাঁহাদের পূর্ব্বোক্ত ব্যবহারে কাছাড়বাসী তাহাদের এই আশ্বাস বাণীতে ভুলিতে নারাজ এবং শিলচার এলাকার স্থায়ী বাসীন্দা সকলেই একা শ্রীহট্টের বঙ্গভুক্তির প্রতিবাদ করিতে আমাকে দৃঢ়ভাবে বলিয়া দিয়াছেন তাই আমি শ্রীহট্টের বঙ্গভুক্তির প্রতিবাদ করিতেছি। শ্রীহট্টের নেতাদের অনুরোধে শ্রীহট্টের বঙ্গভুক্তির প্রস্তাব সমর্থন করিলে আমি শিলচার অধিবাসীর নিকট বিশ্বাসঘাতক হইব। শ্রীহট্টের নেতাগণ কাছাড়ের প্রতি কুটীল ব্যবহার করিয়া কাছাড়ের প্রতিনিধিগণ হইতে সাহায্য পাওয়ার আশা করাটা বোধ হয় সঙ্গত নহে। কাছাড় সর্ব্বদাই সকল কার্য্যে শ্রীহট্টের অনুগত হইয়া চলিয়াছে তাই শ্রীহট্টের নেতাদের কুটীল ব্যবহারে আজ কাছাড় মর্ম্মাহত। শ্রীহট্ট-বাসী নেতাগণ পূর্ব্বে শ্রীহট্টকে বঙ্গভুক্ত করিয়া পরে কাছাড়কে টানিয়া নিবার আশ্বাস দিতেছেন কিন্তু কয়েকদিন অপেক্ষা করিয়া কাছাড়কে সঙ্গে

নিয়া বঙ্গভুক্তির চেষ্টা না করায় কাছাড়বাসী শ্রীহট্টের এই আশ্বাস বাণীতে বিশ্বাস করিতে পারিতেছে না। সেই জন্য আমি শ্রীহট্টের বঙ্গভুক্তিতে শিলচারের পক্ষে প্রতিবাদ করিতেছি। আমি যতদূর জানি কাছাড়ের কোনও মেম্বরই এই প্রস্তাবের সমর্থন করিবেন না। শ্রীহট্ট বঙ্গভুক্ত হইলে অবশিষ্ট আসামে গবর্ণরের পদ থাকিবে বলিয়া সম্ভব নাই সুতরাং কাছাড় যে সুবিধাটুকু চাহিয়াছিল তাহাও হারাইবে। শ্রীহট্টের বঙ্গ-ভুক্তিতে ইহাই কাছাড়ের বিশেষ আপত্তি।

Rev. J. J. M. NICHOLS-ROY :—Sir, I consider this to be the most important resolution in the history of Assam since it was constituted a Chief Commissionership 50 years ago. I think that it is very important that we should consider this matter and seriously consider it before we give our final decision and go to any Lobby that we may decide to go. I am not convinced at all by the arguments which my hon'ble friends have advanced regarding the status of Assam. I am opposed to the resolution on two grounds, first I believe it is detrimental to the province of Assam and secondly it is detrimental to the formation of an Indian nation. Regarding the status of Assam I need not say many things, but only a few things I want the hon'ble members, Sir, to notice. According to the ninth Despatch of 1919, regarding Assam and the backward tracts the framers of the Report found it very difficult to include Assam among the major provinces. Assam stands last in the list of major provinces. It was calculated at that time that Assam had about 60 lakhs of population. It is very doubtful whether Assam would have been taken as one of the major provinces had the population been lower. Babu Basanta Kumar Das already said ithat the electorate would be reduced to 148,000 when Sylhet has been transferred from Assam. I want to turn the attention of hon'ble members to the Southborough Report. In this report you will find that Central Provinces, the seventh of the eight provinces, which is a little bit bigger than Assam has 159,500 electors (*hear, hear*), while Assam will have without Sylhet only 148,000; and we have no guarantee that 159,000 may not be taken as the minimum number of voters for a Governor's province. We have no guarantee in that way I say. And moreover I want to read from this Despatch the attitude of the framers of the Report at the time when they were considering the question of Assam. That will be found in the 4th paragraph. They wanted to treat Assam differently from the other major provinces. They did not want to include Assam in their list and I understand it was onlv through the special Commission that was sent to England as Maulavi Faiznur Ali said that Assam has been included in the list of major provinces. Had it not been for that, the people who had the authority to give the Reforms would have not given Assam the Reforms at all. The difficulty in their minds was expressed

in these words: "The justification for treating Assam in a special manner must be sought not so much in its area which as we have mentioned is almost equal to that of Bengal as in the very large proportion of this area which lies in the hills and the consequent smallness of the area with its correspondingly small population and revenues which can be compared in the matter of general progress and advancement with the rural tracts of other provinces." They found it very difficult to include Assam among the major provinces. Babu Basanta Kumar Das read the communication of the Government of Assam to the Government of India. The Government of Assam tried to show the Government of India that Assam should remain as a Governor's province even after Sylhet has been transferred. The very fact that they produced these arguments shows that they were afraid that the status of Assam would be endangered otherwise they would not have written as they wrote. There would have been no need of the special arguments advanced had there been no fear in regard to the status of the province. Last year when this resolution was passed in the House there was no mention of status at all. It is the Government of Assam who took the step to write to the Government of India that Sylhet could be transferred on the condition that the status of Assam should not be affected. Had it not been for the foresight of the Government of Assam we would have been in difficulty now. And, Sir, in spite of the correspondence of the Government of Assam and the proceedings of the session of the Council of last year regarding this question, the Government of India did not decide the question but referred it back to the Council to reconsider the matter in view of the correspondence which they have sent. It seems clear, Sir, that the Government of India knew that the status of Assam is endangered, and therefore they wanted to give the Council another chance—a second chance—to reconsider the matter. The Government of India in their letter of 24th October 1925 distinctly said these words:—"The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer. They consider that the future status of Assam is a separate question which must be left an open matter to be decided on its merits after any transfer is made. The Government of India observe, however, that any change in the status of Assam would probably involve an amendment of the Government of India Act"—(which Act may be amended at any time after this resolution has been passed in this House) "and therefore for some time at any rate Assam would remain a Governor's province. They are unable to state now whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by some 33 per centum". In these words they have made it very clear to the Council that the status of Assam is in danger.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Just now? Immediately after the transfer?

REV. J. J. M. NICHOLS-ROY :—May I proceed, Sir?

THE HON'BLE THE PRESIDENT :—Yes, go on.

REV. J. J. M. NICHOLS-ROY :—The hon'ble member knows Sir, that the status may be in danger at any time. As soon as this resolution is passed in this House there may be an amendment of the Government of India Act and, who knows, when this status will be lost. It is God only who can tell; nobody knows.

BABU KRISHNA SUNDAR DAM :— God does not delve in politics.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA :—Sir, will you stop this running commentary?

THE HON'BLE THE PRESIDENT :—The hon'ble member need not take notice of the remarks.

REV. J. J. M. NICHOLS-ROY :—Politics without God is rotten politics. Now, Sir, returning to the resolution, it is very clear that the resolution which is before the House makes no condition at all, but the hon'ble mover of the resolution himself in his speech yesterday committed himself when he said these words which I took down when he spoke—" We would rather oppose Sylhet going to Bengal than lose the status of Assam." He wanted to make it conditional and at the same time he wanted to make no conditions at all. This is a very ambiguous position, and I was very much surprised. In reality there is no surprise about it because the mentality of the Assamese Councillors is that they are very sanguine that the status of Assam will remain as it is, but if they knew that the status of Assam would be affected they would oppose the transfer of Sylhet. Then let the Government of India understand in that case that this resolution should not be taken simply by the number of the votes but by the sentiment of the House that they do not want to let Sylhet go unless Assam retains the status of a Governor's province. That is a fact. Whatever we may say now in regard to the status we are only theorising. This Government or the Government of India cannot guarantee that the status will remain as it is. Therefore when we are asked to vote for the transfer of Sylhet we are asked to take a leap in the dark, we are asked to live in hopes only and not to build on facts. I do not want to live in hopes only. I do not want to leap in the dark, but I want to build on facts. We may clamour afterwards, we may cry, we may fight, but it is better to keep what we have than to fight afterwards when we have lost it. That is what I consider to be the only reasonable position which the members for the Assam Valley who are going to vote ought to take.

Now, Sir, another point I want to speak about is regarding the effect which this resolution will have on India. I am against the very basis on which this resolution has been founded. It is based on language and race. I consider that the idea of demarcating India according to races and languages is detrimental to the formation of an Indian nation. (*Hear! Hear!*). So, Sir, I was very much surprised when last year Babu Brajendra Narayan Chaudhuri,

one of our leading politicians, a great patriot, a well known figure in Assam.....

SRIJUT KULADHAR CHALIHA:—Sir, is that not personal?

REV. J. J. M. NICHOLS-ROY:—No, I am speaking facts. He is a well known figure in Assam. In every paper we read about Brajendra Babu.

SRIJUT KULADHAR CHALIHA:— May I have your ruling, Sir, as to whether it is personal or not?

THE HON'BLE THE PRESIDENT:— I do not think he has said anything, or used any epithet which is objectionable. If he goes any further I will stop him.

REV. J. J. M. NICHOLS-ROY:— I am saying it sincerely, Sir.

BABU BASANTA KUMAR DAS:—But the tone is a tone of banter.

REV. J. J. M. NICHOLS-ROY:—In his speech in the last Council he spoke about "Bengali nationalism" and he referred to the nationalism of Europe which brought a curse to humanity, to the world, landing it in the last, never-to-be-forgotten war. He referred to the case of Alsace-Lorraine. He said—"Our sentiments of Bengali nationalism in the provincial sphere are the same as those of Alsace-Lorraine, only one degree removed in the sphere of the sub-state or province." Sir, my heart sinks within me when I hear some of our leading politicians like Babu Brajendra Narayan Chaudhuri speak of Bengali nationalism and advocate such provincial nationalism at the expense of the general interest of India—at the expense of an Indian nation. Which way shall we look? Here are our future rulers—they are going to rule India—some of these friends are—and they are going to advocate Bengali nationalism, Assamese nationalism, Uriya nationalism, Madrasi nationalism, and what is going to happen to our Indian nation? Shall we not repeat the same things which Europe has gone through by fighting against one another? We shall add to the communal differences these racial and linguistic differences. These are the things which look very gloomy to me. I consider that the provincial nationalism is the outcome of perverted human nature. Where are patriots who will rise above provincial nationalism and sink their petty differences, their national, their racial, their liguistic differences, their petty sentiments, to the interest of India as a whole and create an atmosphere for the proper formation of an Indian nation? After the war, Sir, there was quite a movement in India for the formation of an Indian nation—as one great scholar said:—"India was in the throes of national birth. People began to forget whether they were Bengalis, Madrassis, Assamese or Uriyas. There was a hope that an Indian nation would be formed—yes, there was such a hope in the minds of many people who looked from outside; but, Sir, if we begin to descend and speak about provincial nationalism and continue in that way, where shall we land? I say, Sir, therefore that I am opposed to this resolution because it will create a precedent for the demarcation of India

according to race and language, which I believe to be detrimental to the welfare of India as a whole. The effect tnat will come to the country and the Indian legislatures when India has been divided according to race and language that is according to the basis of this resolution is foreseen by many. In the Montagu-Chelmsford Report we find on page 159, paragraph 246, these words:—

'It is also a strong argument in favour of linguistic or racial units of government that by making it possible to conduct the business of legislation in the vernacular, they would contribute to draw into the arena of public affairs men who are not acquainted with English'.

This is the outcome if India is divided according to the basis which forms the foundation for this resolution. Well, then what will be the consequence? The consequence will be that provinces will become watertight. They will be more and more separated from one another. Imagine all the Indian legislatures carrying on their business in their own vernaculars with many councillors who know little of the well advanced portions of the world! What will the consequence be? Assamese will hardly know the Bengalis, Bengalis will hardly know the Madrassis and the Madrassis will hardly know the Uriyas and so on. Then instead of going forward in politics we shall go backward, instead of forming an Indian nation we shall form warring nations. This will be the consequence, and I for one am against this kind of demarcation of the country. Therefore I am opposed to this resolution which I consider to be very detrimental to the people of India.

Sir, I want to refer to another matter. It was a great surprise to me when some of my friends from Assam Valley spoke of a homogenous population. I could not understand in reality what they meant by homogenous population. After Sylhet has been transferred Assam will not be left with a homogenous population. There will still be Cachar unless Cachar too goes away. There are the Bengalis here, the Khasis, the Assamese, there are different classes of people. Now, what will become of the twelve lakhs of Bengalis in Assam? I happened to read this morning a few words from the speech of my hon'ble friend Srijut Nilmoni Phukan. Last year he spoke against this resolution and he spoke these words:—

'Perhaps you know, Sir, that at this moment thousands of people from Mymensingh have already swamped the districts of Nowgong and Gauhati and who knows some day these people will not come up on a linguistic basis and say that this portion should be carved out of Assam and be added to Bengal or thrown into the Bay of Bengal.'

He realised then that if the principle of self-determination and the language basis be the rules for our guidance the consequence would be detrimental to Assam. Who will prevent the people of Cachar from agitating again and again to go to Bengal. We hear in this Council that they are going to agitate; and our hon'ble Sylhet friends who are going away from Assam are going to agitate for

Cachar. The Cachar members have already said that they are not going to rest; and some of the members of Goalpara already have said that they are not going to rest either. They are going to agitate the same thing. And who knows as my hon'ble friend Mr. Phukan said that some of the Mymensingh people who are now in Assam will not want also to go away from Assam and carve some parts of Assam out and take it to Bengal. These are the things that we shall have to meet in the future. If we once commit ourselves to this principle of self-determination and language basis I am afraid we shall not see the end. Our difficulties will grow.

Now, Sir, there is also another point. I do not understand why the Government of Assam should favour this proposal. I do not know what the Assam Government's attitude is but it seems to me that the only reasonable position which the Assam Government should take is to oppose the transfer of Sylhet. The Government of India has plainly said that they should answer practically 'yes' or 'no'. They do not want any conditions. What is the use of putting in any more conditions. It will only mean that they do not want Sylhet to go. Sir, instead of going in a round-about way it would be reasonable to say really "We do not want Sylhet to go since we do not know what will become of Assam." That will be the most reasonable position, it appears to me that the Government should take, and we hope that the Government members who are the trustees of the welfare of the people of Assam and of the future status of Assam, would not risk the status of the province because no one in Assam seems to want to risk the status of the Governor's province. I appeal to my hon'ble friends, the Planters who are members of this Council to help us in this matter, that they may not throw us into difficulty. I hope they will vote against this transfer because it will mean the risking of the status of Assam. Though hopes have been held out to us yet we are still unconvinced that our hopes will be realised if Sylhet is transferred to Bengal. We are building only on hope. Whether our hopes will be realised or not nobody knows for certain. He who is a wise man, will not jump, will not take a leap in the dark, but will stand on solid facts.

Another point, Sir, which I forgot to mention is regarding the condition of the franchise. The conditions of franchise in Assam have been greatly reduced in comparison with the franchise conditions in the Central Provinces and other major provinces. I want to point that out here. Regarding the qualifications of the electors in the Central Provinces it is said, in urban areas that one of the qualifications is that a person should own or hire a house or building of the annual rental value of not less than Rs. 36. But in Assam, in the urban areas in respect of municipal or cantonment rates aggregating not less than Rs. 3. In the case of the Nowgong Municipality it is 'not less than Rs. 2' and in the case of the Sylhet Municipality it is 'not less than Re. 1-8'. So, the condition of franchise is lower than that of the Central Provinces. In the rural areas also it is the same. It is written here in the rules that every person in the Central Provinces and Berar will

be entered in the electoral roll of the constituency who has a place of residence in the area and owns land paying cess or assessable to land revenue of not less than Rs. 100 per annum. But here in Assam the condition of franchise is very low. It is written that every person will be entered in the electoral roll of the constituency who has a place of residence in the area and in the districts of Sylhet, Cachar and Goalpara pays a chaukidari tax under the Bengal Act VI of 1870 of not less than Re. 1 per annum or in the remainder of the province owns land assessed or assessable to a land revenue of not less than Rs. 15 or pays a local rate of not less than Re. 1. That is in Assam. Now, Sir, this shows that Assam had to be treated in a special manner in order to get it included within the list of the major provinces. There was a *special consideration* for Assam. We have got the Reforms now simply because of that special treatment by the authorities who have the power to give us the Reforms, but that is Assam with Sylhet. Now if Sylhet is taken away who knows whether the same special treatment will be given to Assam or not.

THE HON'BLE THE PRESIDENT:—I think the hon'ble member will finish now. He has taken already a long time.

REV. J. J. M. NICHOLS-ROY:—Just a minute, Sir. I say, Sir, that those who will vote for this resolution are leaping in the dark. Therefore I oppose this resolution.

SRIJUT KULADHAR CHALIHA:—Sir, the subject has been so well thrashed out that it hardly needs any more speech on the subject. But yet, after hearing the Rev. Nichols-Roy who has been here for a long time and has given a peroration about our duties I think I shall be failing in my duty if I fail to reply to his objections. At the same time we cannot forget that the objections and other reasons advanced by the Government of Assam cannot be allowed to go unrefuted. First, I shall take the reasons which they said actuated us in voting with the Surma Valley members—out of jealousy we wanted to get rid of the Sylhet district. I should like to say that so long as we were jealous, so long as we were envious of them they were not in a position to bring up this resolution before the House. But after the non-co-operation movement, after the awakening of the national spirit a new idea, a higher ideal and a better ideal has come amongst us and for that reason we have come to help them, because we know it will be unjust on our part to refuse their union with their countrymen in Bengal. So we have voted—not out of jealousy as they put it, but out of our goodwill. I think the Assam Government has not enhanced its reputation by putting us down to that feeling, though I should give them credit that they have correctly interpreted the feelings of the people about the status and other things. I should like to thank His Excellency and the Members of Government in interpreting the situation, that there would be intense agitation, may I say probably more bitter than that of 1921 if the status is lowered. We should give them credit for correctly gauging that feeling. We find also that there are certain other remarks for which also they must get

credit and that is on the question of economy. I think we need hardly fear—I was the first person to point out that Sylhet is a deficit district that our economic position will be better when Sylhet is transferred to Bengal. I knew the members of the Assam Valley, the electors in the Assam Valley will ask us what reason we had to vote for the resolution. We told them that economically if we allow Sylhet to go to Bengal and join their countrymen there we would gain immensely. We shall be able to develop a homogenous community, we will be able to develop our own characteristic traditions and institutions.

We pointed out to the people clearly that we have been spending a portion of our funds which otherwise would have been available for the Assam Proper for Sylhet. This sum will be available for our purpose. We have stated exactly what we feel and we are stating it now too that if Sylhet goes to Bengal, it will be for the interest of ourselves that we should not stand in their way.

There are other reasons which were advanced against the transfer by the Hon'ble Maulavi Saadulla. They have been amply refuted by the Hon'ble Maulavi Faiznur Ali and I need not refute them again. But there is one thing that I should like to say. He thinks that the number of Muhammadans will be very small and as such probably they will be hit hard by the decrease in their numerical strength. Have we ever, I say, failed to respect the minority, have we failed to respect the claims of the minorities, the Anglo-Indians, the Europeans who are still fewer in number? It will be our bounden duty to see that no minority suffer by the influence of the majority. I think we will be failing in our duty, in our responsibility, if we do not help them. Our ideas are growing. We are conscious of our responsibility and we feel that we will never fail to respect the smallest minority, not to speak of the Muhammadans, not to speak of the Anglo-Indians, but also of the Europeans who as I have said, are fewer in number. We will not be performing our duty if we forget their rights and I can assure the Hon'ble Maulavi Saadulla—and I believe my feelings are shared by all the members here that the minorities will not be ever interfered with. Our Maulavi Sahib is harping on a communal claim while men like Kemel Pasha is coming out with the national feeling. Let us be one nation, let us forget *chapkans* and *paijamas*, let us if necessary wear all frock-coats and represent as one people. And I think the day is not far when Maulavi Saadulla will be leading such a movement here.

A voice:—But you will oppose him.

SRIJUT KULADHAR CHALIHA:—I shall be his humble follower.

THE HON'BLE MAULVI SAIYID MUHAMMAD SAADULLA:—Thank you very much.

SRIJUT KULADHAR CHALIHA:—Then as regards Revd. Mr. Nichols-Roy's contention about language question—one thing which has troubled him—probably he requires an answer. In the Con-

gress platform which I hope and trust Revd. Mr. Nichols-Roy will join some day—if he goes there he will find that the people there speak, Hindi they speak Marhatti, they speak Telugu and many other languages but it has not prevented them from developing a higher national idea. I think we are not jealous of each other now-a-days. We are not jealous of the Bengalis in spite of their advance, for we know that we will be able to develop ourselves, we think that we shall be able to go ahead even of Bengal. I am sure that my Assamese friends are fully convinced of that. I feel for Rev. Mr. Nichols-Roy for he belongs to a small community. Yet I would point out to him that we in this Council never went against the Khasi people. We have a better national ideal. We have been able to subdue feelings of animosity on the score of language. We will be able to assimilate the Khasis as Assamese. In fact are we different in race? I think the Khasis are Assamese and the Assamese are Khasis and we will assimilate them sooner or later. All the same what is there to prevent him from speaking Assamese. He is speaking a foreign language and still he is mixing with us freely.

Of course there is a different ideal before the League of Nations. But it is probably a goal which not in the near future the League of Nations can attain. This international ideal is not to be achieved in a generation or in the next generation, it may take another two hundred years. So international development is a thing which is very remote. Do you think that the Irish people, because they have separated from the English are going to be less prosperous, I think this requires very little arguments. These things are thrashed threadbare in journals and other papers.

Now as regards the status. The Government has quite correctly represented it and I think there is not the least probability that the Government of India will be unstatesmanlike as to lower the status of the province and to face an agitation which no Government will ever desire. I don't think the British Parliament will create such a dangerous precedent by putting us back. I know the mentality of the Assamese members; I need not assure them that the British Parliament will not tolerate any such idea of lowering the status of the province. I have no fear on the score of the status. The Government itself, in the interest of the Civil Service, will try their level best to keep it as a Governor's province. I plainly see it that it is to their interest to keep it for their own sake, and the Government will be failing in their duty to the great service if they do not retain so many jobs for the Civil Service by keeping the province intact. I do not think our Civil Services are so very self-sacrificing as to forego their rights easily.

As regards the status there is only one thing which should be the criterion. The criterion is how many people are interested in the constitution. As has been pointed out our electors will be about as much in numbers as those of the Central Provinces—148,000—I think it will be more. With the women votes I think it will be little more than that. We should see how many people really take

interest in the constitution as compared with any other small province in India. So I think the Government of Assam can go forward to the Government of India that our number will not be less. So, I think, even on that score we need not fear. The criterion for keeping up a constitution is to see to the number of people taking interest in it. The Central Provinces may have a large number of people but the number taking interest in the constitution is much less. We do not see why our Government will not be able to present our case properly, that we will have as much electors as any other small province in India.

I think with these remarks I can commend this resolution to the acceptance of the House and I trust that the members of the Assam Valley will be almost unanimous and that they will vote for the resolution because it will be for the good of the people of Sylhet as well as for the good of the people of the Assam Valley.

SRIJUT SADANANDA DOWERAH:—The objections that have been raised against my resolution have been amply replied to by many of the hon'ble members. So there is not much for me to reply. All the same I cannot help that I have to protest against certain remarks coming from certain quarters. My friend, Maulavi Rashid Ali Laskar did give expression in the depth of disappointment that this province will be a Planters' province. Sir, everybody in this House must realise that tea planters have as much interest in this province as anybody else and in spite of criticisms levelled against them they have co-operated with us in all matters. The remark was not justified at all and I must protest against it.

Sir, the most important objections that have been raised comes from the Hon'ble Maulavi Saadulla. It relates to numbers. My friend seems to be obsessed with the question of number alone. I have tried my best to realise what is that makes numbers so important in this question. The only significance of numbers so far as I can see is whether the population will be able to bear the burden of taxation to support a Governor's province. If Sylhet is taken away, will the rest of the province be able to bear it? I think they will be able to bear it better. What is more, if Sylhet goes there, the burden will be lighter? At least one Commissioner will be abolished with the office. My friend Maulavi Faiznur Ali rightly emphasised that it was not much the question of number—as it is the question of the stamina of the people that is to be taken into account. It has been said that in the beginning it was found difficult to concede to the province of Assam the status of a Governor's province. We must not forget that the then Chief Commissioner of Assam was opposed to the status of a Governor's province being given to Assam. What we find now? In spite of the fears, in spite of the apprehensions raised by our own countrymen the Governor in Council have consistently recommended and expressed that Assam can be run as a Governor's province. And my friend Rev. Mr. Nichols-Roy has correctly said that the members of the Assam Valley in spite of the fears and alarms raised by our own countrymen the Governor in Council has recommended strongly

that even if Sylhet were transferred Assam's status as a Governor's province should not be impaired. And my friend Rev. Nichols-Roy has correctly said that the members of the Assam Valley are voting for this resolution because they are confident that the status of the province cannot be interfered with. We feel ourselves confident, perfectly sanguine, that the British Parliament will never think of taking back from us after six years of successful and loyal co-operation the status that it has conceded to us. It is simply unthinkable. It is true that we have no representative in the Government of India but we still have better faith in British statesmanship than some of our own countrymen. If I had any doubts in my mind as to the status of the province I would never have voted for the transfer of Sylhet. It is the self-determination not only of Sylhet but of the province as a whole to think that it is better for Sylhet and better for Assam that Sylhet should go to Bengal. As I have already said if Sylhet goes to Bengal we will have a policy to pursue, we will have progress.

Some members have been trying to cloud the issues by raising the question of Cachar and Goalpara. These issues are not before the House now and when they come we will know how to deal with them. The question now is only as it stands before the House. I appeal to all the members that in the interests of the province as a whole they should vote for the motion. I also venture to appeal to you, Sir, that before you put this resolution to the vote you will see your way to putting the whole resolution as a whole together instead of separating the issues a procedure which would not meet with the wishes of the majority of the members present.

HON'BLE MR. A. W. BOTHAM:—Sir, there is only one thing which I wish to say in closing this discussion. I do not know which way the decision of this Council will go. But whatever the decision is, it will represent the vote of the majority of the non-official members of this Council, since the official members will not vote on the first part of the resolution. If the decision is in favour of a recommendation for the transfer of Sylhet and if effect is given to that recommendation, those of us who are left in Assam will, I have no doubt, work together wholeheartedly for the advancement of our reduced province, and will do our best to show that small though we may be in population we are worthy of retaining our status amongst the provinces of India (*hear, hear*). On the other hand if the decision is opposed to the transfer I trust that it will not be too optimistic to hope that the decision of the majority of the non-official members of this Council will be accepted as final and that the whole province will settle down to work together without the disturbing factor of any further movement for transfer or partition.

THE HON'BLE THE PRESIDENT:—As I informed hon'ble members yesterday it was with the greatest consideration that we admitted the two parts as one resolution and the acceptance of the amendment has further broadened the gulf between the two issues. In this case whether I am to put both parts together before the House or not would largely depend not so much on me, but on the

form of the resolution. I would have been very happy to have acceded to the request of the hon'ble members to place the two parts together if they had not been absolutely separate. So I desire to place the two parts of this resolution separately as two resolutions.

The first question now before the House is:

This Council recommends to the Governor in Council that the district of Sylhet be transferred to Bengal.

The question was put and a division taken with the following result:—

Ayes—26.	Noes—12.
1. The Hon'ble Rai Bahadur Promode Chandra Dutta.	1. The Hon'ble Maulavi Saiyid Muhammad Saadulla.
2. Rai Bahadur Amarnath Ray.	
3. Rai Bahadur Siva Prosad Barua.	2. Maulavi Dewan Muhammad Wasil Chaudhury.
4. Srijut Nilmoni Phukan.	
5. Mr. D. S. Withers.	
6. Babu Basanta Kumar Das.	3. Rev. J. C. Evans.
7. Babu Brajendra Narayan Chaudhuri.	
8. Babu Gopendrolal Das Chaudhuri.	4. Khan Bahadur Abul Fazl Ahmad.
9. Babu Krishna Sundar Dam.	
10. Babu Kshirod Chandra Deb.	
11. Srijut Bepin Chandra Ghose.	5. Rev. J. J. M. Nichols-Roy.
12. Srijut Kamakhyaram Baruah.	6. Rai Bahadur Bipin Chandra Deb Laskar.
13. Srijut Mahadeva Sarma.	
14. Srijut Padmanabh Sarma.	
15. Mr. Taraprasad Chaliha.	
16. Srijut Rohini Kanta Hati Barua.	7. Rai Sahib Har Kishore Chakrabatti.
17. Srijut Kuladhar Chaliha.	
18. Srijut Sadananda Dowerah.	8. Maulavi Rashid Ali Laskar.
19. Srijut Sarveswar Barua.	
20. Maulavi Dewan Abdul Rahim Chaudhuri.	9. Khan Bahadur Allauddin Ahmed Chaudhury.
21. Maulavi Abdul Hannan Chaudhuri.	10. Maulavi Mafizuddin Ahmed.
22. Maulavi Muhammad Mudabbir Hussain Chaudhuri.	11. Mr. J. C. Dawson.
23. Maulavi Faiznur Ali.	
24. Mr. W. K. Warren.	12. Mr. H. B. Buchanan.
25. Lieut-Colonel H. C. Garbett.	
26. Mr. M. H. Clarke.	

The Ayes being 26 and the Noes 12 the Resolution was carried.

THE HON'BLE THE PRESIDENT:—" The second question before the House is this:—

> " *This Council recommends to the Governor in Council that while it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces.*' "

The motion was carried *nem con.*

THE HON'BLE THE PRESIDENT:—" As the House has carried these two resolutions the rest of the resolutions drop out."

THE HON'BLE THE PRESIDENT:—This is the order of His Excellency the Governor:—

In exercise of the powers conferred on him by Section 72B of the Government of India Act, His Excellency the Governor is pleased to declare that at the conclusion of the meeting of the 7th January 1926 the Assam Legislative Council do stand prorogued.

B. N. RAU,
Secretary to the Legislative Council, Assam.

SHILLONG:
The 9th January 1926.

APPENDIX A.

Statement showing Comptroller's figures and explanatory notes on the expenditure of Sylhet District for 1924-25.

SYLHET DISTRICT.

Receipts.		Expenditure.	
Major heads.	Amount in thousand of rupees.	Major heads.	Amount in thousand of rupees.
1	2	3	4
	Rs.		Rs.
II.—Taxes in income . .	52(*a*)	5.—Land Revenue .	2,13
V.—Land Revenue . .	12,23	6.—Excise . . .	19
VI.—Excise . . .	4,58	7.—Stamps . . .	26
Carried over .	17,33	Carried over .	2,58

SYLHET DISTRICT—*concld.*

Receipts.		Expenditure.	
Major heads.	Amount in thousand of rupees.	Major heads.	Amount in thousand of rupees.
1	2	3	4
	Rs.		Rs.
Carried over .	17,33	Carried over .	2,58
VII.—Stamps . . .	10,42(*f*)	8.—Forests . . .	64
VIII.—Forest . . .	1,89	9.—Registration . .	83
IX.—Registration .	1,28	22.—General Administration.	3,48
XVI.—Interest . . .	15		
XVII.—Administration of Justice.	68	24.—Administration of Justice.	4,38(*g*)
XVIII.—Jails and Convict Settlements.	39	25.—Jails and Convict Settlements.	1,19
XIX.—Police . . .	(*b*)	26.—Police . . .	5,12
XXI.—Education . .	77	31.—Education . .	6,89(*h*)
XXII.—Medical . . .	(*b*)	32.—Medical . . .	1,08(*h*)
XXIII—Public Health .	7	33.—Public Health . .	1,01
XXIV.—Agriculture . .	27	34.—Agriculture . .	76
XXV.—Industries . .	2	35.—Industries . .	18
XXX.—Civil Works . .	17	37.—Miscellaneous Department.	...
XXXIII.—Receipts in aid of Superannuation.	3	41.—Civil Works . .	2,47(*d*)
XXXIV.—Stationery and Printing.	1	45.—Superannuation, etc.	1,40
XXXV.—Miscellaneous .	30+28(*c*)	47.—Miscellaneous . .	52(*e*)
Total .	34,06	Total .	32,53

General remarks:—

In the above statement the expenditure on (*i*) the Divisional Commissioner and his establishment and (*ii*) the Inspector of Schools and his establishment has not been included. The total expenditure under these two heads during 1924-25 was approximately Rs. 79,000 and Rs. 21,000 respectively. A proportion of this expenditure is debitable to Sylhet, but exact proportion cannot be determined.

Expenditure in England debited finally in the Home accounts has not been shown here as the figures cannot be distributed.

The cost of printing of forms in Bengal and outside presses cannot be distributed. The total expenditure on this account for the whole province including cost of stationery supplied from Central Stores was Rs. 83,000.

It has not been found possible to exclude transactions relating to other districts which pass through the Sylhet Treasury in their entirety, as separate account is not kept of them in this office. For the same reason the transactions relating to Sylhet but accounted for in other districts could be accounted for only in a few cases. Receipts of the Sylhet Seed Depôt in other districts have not been taken into account.

(*a*) The figure under " II.—Taxes on income " represents Provincial Governments' share of income-tax. The Provincial share of income-tax for the whole province was Rs. 5,54,225-14-6. In the absence of any information as to what the assessed income for Sylhet in 1924-25 was, the share of Sylhet out of the total of Rs. 5,54,225-14-6 cannot be correctly worked out. But only a rough estimate has been made by the rule of proportion on the basis of the total collections for the whole province (which was Rs. 19,70,443-4-1) as against the amount collected in Sylhet (which was Rs. 1,85,199-13-8).

(*b*) Under one thousand.

(*c*) This figure includes Rs. 28,000 on account of proportionate share of contribution by the Central Government on account of collection of income-tax.

The total amount of contribution paid for the province in 1924-25 was Rs. 2,92,321. The share of Sylhet (Rs. 28,000) has been worked out at the rate of 10 per cent. on the ordinary collections (after deduction of refund) of that district.

(*d*) This figure does not include the expenditure on the construction of the Murarichand College, which amounted to Rs. 1,24,000 during the year. A portion of the Sylhet district is included in the Cachar Division so far as Public Works expenditure is concerned. As the expenditure for that portion is not booked separately from that relating to the Cachar district it cannot be furnished by this office. If required, it may be obtained from the Executive Engineer, Cachar Division. Total expenditure includes Rs. 1,29,000 for contributions, Rs. 72,000 for establishment and Rs. 92,000 for other works. Share of establishment debitable to the Murarichand College, Central, etc., is Rs. 46,000. This amount has therefore been deducted from the district expenditure.

(*e*) Besides this sum of Rs. 52,000, a sum of Rs. 2,49,020 was debited to this head on account of irrecoverable temporary loans written off during 1924-25 which did not affect Provincial balance.

(*f*) This does not include Sylhet's share of the Unified stamps and stamp fees realised in Bengal.

(*g*) Does not include share of cost of the High Court at Calcutta.

(*h*) Do not include share of educational institutions and Mental Hospitals in Bengal, etc.

APPENDIX B.

Explanatory Notes made by Finance Department regarding receipts and expenditure of Sylhet District for 1924-25.

Receipts—

(*a*) Under the head "Taxes on Income" Comptroller showed an approximate estimate of the Sylhet share of the income-tax credited to this province. His figure was Rs. 52. Following the principle adopted previously the Finance Department showed under this head an estimate of the provincial share of the income-tax paid in Sylhet (Rs. 14) and added below Rs. 65 as representing approximately the Sylhet share of the income-tax and stamp revenue paid in Bengal. The figures taken by Government are more favourable to Sylhet than those taken by the Comptroller.

(*b*) The Comptroller added Rs. 28 as an estimate of the Sylhet share of the commission paid by the Central Government for the cost of collecting income-tax in Assam. This figure was excluded, as no part of the cost of the Commissioner of Income-tax and his office had been debited to Sylhet and no special staff is employed in Sylhet for the income-tax work.

The result of these adjustments was that the figures on the receipts side published by Government are Rs. 1 less than those supplied by the Comptroller.

Expenditure—

(*a*) The Comptroller figures under General Administration were raised by Rs. 18, representing the travelling allowance of the Sylhet members of the Legislative Council. Such expenditure had been included in the figures of previous years.

(*b*) Rs. 123 were added under 41.—Civil Works on account of of the Public Works expenditure in South Sylhet, which is included within the Cachar Public Works Division. The figures were obtained from the Public Works Department and the adjustment was made on the same way as in the previous years' figures.

The Comptroller noted that his figures under this head were incomplete.

(*c*) Rs. 51 were added as in the previous years' figures representing the cost of Sylhet students and others in institutions outside the district *minus* the cost of students and others from other districts in Sylhet institutions.

APPENDIX II.

Press Communiqué.

It will be remembered that in January last the Assam Legislative Council adopted two resolutions, one of which recommended the transfer of the district of Sylhet to Bengal, and the other stipulated in general terms that this transfer should not, however, prejudice the future status of Assam as a Governor's province.

The first resolution was carried by 26 votes to 12, and the second unanimously.

The proposal had previously been discussed more than once in the Legislative Councils of Assam and Bengal, and on every occasion the transfer of Sylhet from Assam to Bengal was approved by a majority of the Council.

A similar resolution was moved and discussed in the Legislative Assembly in January 1925, but the discussion had to be adjourned, firstly, until the final views of the two provincial Governments and Legislative Councils were known, and, secondly, until the Government of India had consulted the Secretary of State in Council. No conclusions had been reached before the Indian Legislative Assembly adjourned in March last, and the discussion could not therefore be resumed in that body. The Government of India have now obtained the instructions of the Secretary of State and consider it desirable, in view of the many conflicting rumours and uncertainty that for nearly two years have prevailed in regard to the future of Sylhet, to announce at once the decision which has just been reached.

The Secretary of State has ruled that the transfer of the district to Bengal cannot be dissociated from that of the future form of administration of the province of Assam. The Government of India, agreeing with this ruling, propose accordingly to reserve these two questions, namely the transfer of Sylhet, and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission to be appointed in 1929 under the provisions of section 84-A of the Government of India Act.

G. M. YOUNG,

Offg. Joint Secretary to the Government of India.

HOME DEPARTMENT;
Simla, the 16th June 1926.

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