(350)

Indian Round Table Conference

12th November, 1930—19th January, 1931

PROCEEDINGS OF SUB-COMMITTEES

(Volume II)

[SUB-COMMITTEE No. II (Provincial Constitution)]

UNIVERSITY OF NORTH BENGAL
LIBRARY
RAJA RAMMOHUNPUR

CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1931

Ref 954·035
In 39 i vol 2

Government of India Publications are obtainable from the Government of India Central Publication Branch, 3, Government Place, West, Calcutta, and from the following Agents :—

STOCK TAKING 2016

EUROPE.

OFFICE OF THE HIGH COMMISSIONER FOR INDIA,
INDIA HOUSE, ALDWYCH, LONDON, W.C. 2

And at all Booksellers.

INDIA AND CEYLON : Provincial Book Depôts.

MADRAS :—Superintendent, Government Press, Mount Road, Madras.
BOMBAY :—Superintendent, Government Printing and Stationery, Queen's Road, Bombay.
SIND :—Library attached to the Office of the Commissioner in Sind, Karachi.
BENGAL :—Bengal Secretariat Book Depôt, Writers' Buildings, Room No. 1, Ground Floor, Calcutta.
UNITED PROVINCES OF AGRA AND OUDH :—Superintendent of Government Press, United Provinces of Agra and Oudh, Allahabad.
PUNJAB :—Superintendent, Government Printing, Punjab, Lahore.
BURMA :—Superintendent, Government Printing, Burma, Rangoon.
CENTRAL PROVINCES AND BERAR :—Superintendent, Government Printing, Central Provinces, Nagpur.
ASSAM :—Superintendent, Assam Secretariat Press, Shillong.
BIHAR AND ORISSA :—Superintendent, Government Printing, Bihar and Orissa, P. O. Gulzarbagh, Patna.
NORTH-WEST FRONTIER PROVINCE :—Manager, Government Printing and Stationery, Peshawar.

Thacker Spink & Co., Calcutta and Simla.
W. Newman & Co., Ltd., Calcutta.
S. K. Lahiri & Co., Calcutta.
The Indian School Supply Depôt, 309, Bow Bazar Street, Calcutta.
Butterworth & Co. (India), Ltd., Calcutta.
M. C. Sarcar & Sons, 75, College Square, Calcutta.
Standard Literature Company, Limited, Calcutta.
Association Press, Calcutta.
Chukervertty, Chatterjee & Co., Ltd., 13, College Square, Calcutta.
The Book Company, Calcutta.
James Murray & Co., 12, Government Place, Calcutta. (For Meteorological Publications only.)
Ray Chaudhury & Co., 68-5, Ashutosh Mukherji Road, Calcutta.
Scientific Publishing Co., 9, Taltola Lane, Calcutta.
Chatterjee & Co., 3-1, Bacharam Chatterjee Lane, Calcutta.
Standard Law Book Society, 8-2, Hastings Street, Calcutta.
The Hindu Library, 3, Nandalal Mullick Lane, Calcutta.
Kamala Book Depôt, Ltd., 15, College Square, Calcutta.
Bengal Flying Club, Dum-Dum Cantt., on Aviation.
Kali Charan & Co., Municipal Market, Calcutta.
B. C. Basak, Esq., Proprietor, Albert Library, Dacca.
Mitra Brothers, Rajshahi.
Higginbothams, Madras.
Rochouse & Sons, Madras.
G. A. Nateson & Co., Publishers, George Town, Madras.
Theosophical Publishing House, Adyar, Madras.
P. Varadachary & Co., Madras.
S. Murthy & Co., Madras.
City Book Co., Madras.
Law Publishing Co., Mylapore, Madras.
Bright & Co., Trivandrum.
The Booklover's Resort, Taikad, Trivandrum, South India.
E. M. Gopalakrishna Kone, Pudumandapam, Madura.
Central Book Depôt, Madura.
Vijapur & Co., Vizagapatam.
Thacker & Co., Ltd., Bombay.
D. B. Taraporevala, Sons & Co., Bombay.
Sunder Pandurang, Bombay.
Ram Chandra Govind & Sons, Kalbadevi Road, Bombay.
N. M. Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay.
New and Secondhand Bookshop, Kalbadevi Road, Bombay.
Mrs. Radhabai Atmaram Sagoon, Kalbadevi Road, Bombay.
J. M. Pandia & Co., Bombay.
Gatulal & Co., Bombay.
A. H. Wheeler & Co., Allahabad, Calcutta and Bombay.
S. Govind & Co., Sandhurst Road, Girgaon, Bombay.
Bombay Book Depôt, Girgaon, Bombay.
Bennett Coleman and Co., Ltd., The Times of India Press, Bombay.
Proprietor, New Kitabkhana, Poona.
The Manager, *Oriental Book Supplying Agency*, 15, Shukrawar, Poona City.
Rama Krishna Bros., Opposite Vishrambag, Poona City.
S. P. Bookstall, 21, Budhwar, Poona.
Mangaldas & Sons, Booksellers and Publishers, Bhaga Talao, Surat.
The Standard Book and Stationery Co., 32-33, Arbab Road, Peshawar.
R. B. Umadikar & Co., The Bharat Book Depôt, Dharwar.
The Students' Own Book Depôt, Dharwar.
Shri Shankar Karnataka Pustaka Bhandara, Mahamuddi, Dharwar.
The Standard Bookstall, Karachi, Quetta, Delhi, Murree and Rawalpindi.
The Karachi Book Depôt, Elphinstone Street, Camp, Karachi
The English Bookstall, Karachi.
The Standard Bookstall, Quetta.
U. P. Malhotra & Co., Quetta.
J. Ray & Sons, 43,K. & L., Edwardes Road, Rawalpindi, Murree and Lahore.
The Standard Book Depôt, Lahore, Nainital, Mussoorie, Dalhousie, Ambala Cantonment and Delhi.
N. B. Mathur, Supdt., Nazir Kanun Hind Press, Allahabad.
The North India Christian Tract and Book Society, 18, Clive Road, Allahabad.
Ram Dayal Agarwala, 184, Katra, Allahabad.
Ram Narain Lal, Katra, Allahabad.
The Indian Army Book Depôt, Dayalbagh, Agra.
Narayan & Co., Meston Road, Cawnpur.
The Indian Army Book Depôt, Jullundur City—Daryaganj, Delhi.
Manager, Newal Kishore Press, Lucknow.
The Upper India Publishing House, Ltd., Literature Palace, Ammuddaula Park, Lucknow.
Rai Sahib M. Gulab Singh & Sons, Mufid-i-Am Press, Lahore and Allahabad.
Rama Krishna & Sons, Booksellers, Anarkali, Lahore.
Puri Brothers, Booksellers and Publishers, Katcheri Road, Lahore.
The Tilak School Bookshop, Lahore.
The Standard Bookstall, Lahore.
The Proprietor, Punjab Sanskrit Book Depôt, Saidmitha Street, Lahore.
The Insurance Publicity Co., Ltd., Lahore.
The Punjab Religious Book Society, Lahore.
The Commercial Book Co., Lahore.
The University Book Agency, Kacheri Road, Lahore.
Manager of the Imperial Book Depôt, 63, Chandney Chawk Street, Delhi.
J. M. Jaina & Bros., Delhi.
Fono Book Agency, New Delhi and Simla.
Oxford Book and Stationery Company, Delhi, Lahore, Simla, Meerut and Calcutta.
Supdt., American Baptist Mission Press, Rangoon.
The Modern Publishing House, Ltd., 30, Phayre Street, Rangoon.
Burma Book Club, Ltd., Rangoon.
Manager, The "Hitavada," Nagpur.
Bhisey Brothers, Booksellers and Stationers, Sitabaldi, Nagpur.
S. C. Talukdar, Proprietor, Students & Co., Cooch Behar.
The Manager, Ceylon Observer, Colombo.
The Manager, The Indian Book Shop, Benares City.
Nand Kishore & Bros., Chowk, Benares City.
The Srivilliputtur Co-operative Trading Union, Ltd., Srivilliputtur (S. I. R.).
Raghunath Prasad & Sons, Patna City.
The Students' Emporium, Patna.
K. L. Mathur & Bros., Guzri, Patna City.
Kamala Book Stores, Bankipore, Patna.
G. Banerjea & Bros., Ranchi.
Dandekar Brothers, Indore City.
Pushtakalaya Sahayak Sahakari, Ltd., Baroda.
M. C. Kothari, Raipura Road, Baroda.
The Hyderabad Book Depôt, Chaderghat, Hyderabad (Deccan)
Thakur & Co., Amraoti.
S. Krishnaswami & Co., Teppakulam P. O., Trichinopoly Fort
National College Teachers' Union Book Depôt, Trichinopoly
Superintendent, Bangalore Press, Lake View, Mysore Road, Bangalore City.

AGENT IN PALESTINE :—Steimatzky, Jerusalem.

24641
29 AUG 1968
ST - VERF

INTRODUCTORY NOTE.

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

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

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

TABLE OF CONTENTS.

	Page.
SUB-COMMITTEE No. II (PROVINCIAL CONSTITUTION)	1—217
Members	1
Terms of reference	1
1st Meeting, 4th December, 1930	1—24
2nd Meeting, 5th December, 1930	24—42
3rd Meeting, 8th December, 1930	42—83
4th Meeting, 9th December, 1930	83—138
5th Meeting, 15th December, 1930	138—201
6th Meeting, 31st December, 1930	201—202
Report	203—206
Note on Second Chambers *Sir Hubert Carr.*	207—210
The Oriyas, Their Need, and Reasons for a Separate Province *Raja of Parlakimedi.*	211—217

INDIAN ROUND TABLE CONFERENCE

SUB-COMMITTEE No. II.

(Provincial Constitution.)

The Sub-Committee was constituted as follows:—

Mr. A Henderson (Chairman).
The Marquess of Zetland.
Sir Robert Hamilton.
H.H. The Maharaja of Nawanagar. } with a watching brief.
Sir Prabhashankar Pattani. } with a watching brief.
Rao Bahadur Krishnama Chari. } with a watching brief.
Sir Ghulam Hussain Hidayatullah.
Mr. B. V. Jadhav.
Sir Chimanlal Setalvad.
Sir Cowasji Jehangir.
Sir Shah Nawaz Bhutto.
Sir Provash Chunder Mitter.
Mr. Fazl-ul-Huq.
Raja of Parlakimedi.
Diwan Bahadur Ramachandra Rao.
Sir A. P. Patro.
Nawab Sir Ahmad Said Khan.
Mr. C. Y. Chintamani.
Mr. S. B. Tambe.
Mr. Zafrullah Khan.
Raja Narendra Nath.
Sardar Sampuran Singh.
Maharaja of Darbhanga.
Mr. C. Barooah.
Sir Abdul Qaiyum.
Mr. C. E. Wood.
Mr. K. T. Paul.
Mr. N. M. Joshi.
Dr. B. R. Ambedkar.

with the following terms of reference:—

"The powers of the Provincial Legislatures."

"The constitution, character, powers and responsibilities of the Provincial Executives."

PROCEEDINGS OF THE FIRST MEETING OF SUB-COMMITTEE No. II (PROVINCIAL CONSTITUTION) HELD ON 4TH DECEMBER, 1930.

Chairman: This Sub-Committee has been appointed, I understand, to deal with items 7 and 8 in the list of headings drawn up by Lord Shankey and submitted by him to the main Committee. I propose to ask you to give your consideration to the subjects that we should consider under the heading "The Provincial Executive and its relation to the "Legislature". I understand that another Sub-Committee is going to be appointed to deal with the question

of the relation of the Provinces to the Centre, so that we need not trouble about that aspect of the case in our discussion. I therefore suggest we should consider the following questions, though I do not wish to rule out any other suggestions:—

1. Is it practicable to abolish the distinction between reserved and transferred subjects.

2. If so, what are to be—

(*a*) The constitution and composition of the executive,

(*b*) The powers of the Governor *vis-à-vis* (1) his executive,

(2) the legislature?

What, if any, provisions are necessary to safeguard—

(1) The administration of law and order,

(2) The rights of minorities or any other interest?

3. Should all special powers be exercised by the Governor or should some be exercised by the executive as a whole?

4. How should the Governor obtain advice necessary for the exercise of his special powers?

5. Should any provision be made to enable the government to be carried on in the event of a breakdown in the normal constitution? If so, what emergency powers should be given—

(1) to the Governor,

(2) to the Executive, and

(3) what conditions should be requisite for the exercise of these powers, and

(4) under what safeguards should they be exercised.

I will have these suggestions circulated, if that has not already been done. I am sure they give us a number of points to begin upon, and unless any exception is taken I think it would be a good plan if we were to-day to have a general discussion on the whole of the points and on any other points which come within our terms of reference. Perhaps towards the end of to-day's sitting we could see whether there were any special points, or a special point, to which we should like to give our attention at the next meeting of the Sub-Committee.

I want you to understand that within those terms, the subject is entirely open, and I have submitted these suggestions only in order to give us some little guidance as to the points on which we should concentrate our attention, especially at the beginning of our proceedings.

Sir P. C. Mitter: May I enquire whether, with regard to item 7 of the Lord Chancellor's list of heads, the powers of the Provincial Legislatures, you propose to go into that matter at a later stage?

Chairman: It is not ruled out. We were appointed to deal with items 7 and 8, I think, and I should not rule it out of the general discussion.

Sir A. P. Patro: My objection is this. If we have had referred to us items 7 and 8 in the Lord Chancellor's lists of heads, I do not see what authority there is for excluding from our discussion the question of the relations of the Provinces to the Centre. We cannot properly consider the various points under these heads without knowing what would be the relations of the Provinces to the Centre, whether there should be correlation with the Centre or whether the Provinces themselves should decide the matter. All that comes in very directly in discussing the constitution of the Executive and the Provincial Legislatures, and I do not see any reason whatever for excluding that. I do not know who has excluded it, seeing that the general meeting referred items 7 and 8 to this Sub-Committee.

Raja Narendra Nath: In connection with what Sir A. P. Patro has said, I wish to ask if you propose to exclude from our discussion the list of Provincial subjects.

Chairman: No, I said I did not wish to exclude anything.

Raja Narendra Nath: It is nowhere mentioned in this Note.

Chairman: Do not let us have any misunderstanding at the beginning. I put these points down for your guidance, but I have also said that I will not exclude anything which is within our terms of reference.

Raja Narendra Nath: Can we then include the consideration of the Provincial subjects in this discussion, or are we to begin with this item of our proceedings? That is a very important matter.

Chairman: " Provincial subjects " is rather a wide term.

Raja Narendra Nath: I refer to Provincial subjects as they are given in the Schedule attached to the Government of India Act at present.

Chairman: I am in this position. There are other sub-Committees sitting, and it is the intention to set up further sub-Committees. I have to consider whether the subject to which you refer is not already being considered by another sub-Committee, and therefore I say that I am not excluding anything, but if we concentrate our general discussion on the points I have submitted this morning I think our hands will be fairly full. I do not wish to rule out from the purview of the sub-Committee on another occasion any subjects to which I have not referred here.

Mr. Chintamani: While concurring generally with the subjects you have put forward, Sir, I would suggest that as this list has only just been circulated we might go through it, the liberty being left to us to suggest additional subjects at subsequent meetings.

With regard to the suggestion of Raja Narendra Nath, it seems to me that when we consider whether the distinction between reserved and transferred subjects can be abolished, we shall not be able to consider that matter fully without knowing what are the Provincial subjects and whether any of them will have to be reserved or whether all of them can be transferred. I think we can take the

list of Provincial subjects given in the Devolution Rules and suggest any modifications thereto we may think desirable. If any other sub-Committee is seized of this subject of the division into Central and Provincial subjects, our conclusions can be co-ordinated at a later stage.

Diwan Bahadur Ramachandra Rao: On item 1 in the list which has been circulated the whole question of Provincial subjects comes up for consideration because that item says, " Is it practicable to abolish the distinction between reserved and transferred subjects? " and on that all the subjects would come up for discussion and we should certainly have to consider whether this distinction should be maintained or whether there should still be a certain number of reserved subjects or whether all the subjects should be transferred. The question of Provincial subjects therefore, comes up for discussion on item 1.

Chairman: I have already said that I am ruling out nothing if I am satisfied that the subject raised is not being covered by another sub-Committee.

Lord Zetland: I do not think there is really much difficulty here. The question which has been raised, as I understand it, is whether this sub-Committee should discuss the advisability of transferring any additional subjects from the Centre to the Provinces. I do not think that is a matter which ought to interest this sub-Committee; cannot we take the list of Provincial subjects as it exists to-day?

Raja Narendra Nath: Quite right.

Lord Zetland: We should take them in accordance with the Devolution Rules in force and base our discussions on the assumption that, broadly speaking, those are the subjects with which we shall have to deal.

Raja Narendra Nath: That is exactly the suggestion which was made from this side.

Chairman: And I replied that nothing was ruled out.

Sir Cowasji Jehangir: May I point out that when this sub-Committee was being appointed the Prime Minister clearly stated it would have to work in consultation with sub-Committee No. I after we had gone as far as we could go without the assistance of the other sub-Committee?

Chairman: That is exactly the position. I wanted to be sure we were not going to take a lot of time discussing something we could not settle without regard to what was being done elsewhere.

Raja Narendra Nath: The conclusions of the two sub-Committees will have to be co-ordinated later.

Sir Abdul Qaiyum: Do I understand rightly that for the purposes of discussion by this sub-Committee the North-West Frontier Province will be treated as a Province, or does it come under a separate head and will it be dealt with by another sub-Committee?

Diwan Bahadur Ramachandra Rao: That should be a separate subject. There are no reserved and no transferred subjects in the North-West Frontier Province, and no Provincial Legislature and no Provincial Executive except the Chief Commissioner. It is an entirely different proposition.

Sir Abdul Qaiyum: I want to know whether we constitute a separate unit? Are we to regard the North-West Frontier Province as a Province and as coming, therefore, within the scope of our discussion?

Chairman: I understand that when the Lord Chancellor produced these headings he did not lay it down that they covered the North-West Frontier Province.

Sir Abdul Qaiyum: Then do I understand there is going to be a separate sub-Committee to deal with it, or is it going to be omitted altogether from the purview of this Conference?

Chairman: The answer to that question is that as it has not been included among the subjects to be considered by this sub-Committee, the main Committee will have to consider the question of appointing another sub-Committee to deal with that issue.

Sir Abdul Qaiyum: If we are going to consider the question of Provincial constitutions and their relations with the Centre, why should it be necessary to appoint a separate Committee?

Chairman: On that point I should have to ask the Lord Chancellor.

Nawab Sir Ahmad Said Khan: So far as this sub-Committee is concerned, we are here to make the future constitution of our Provinces—not any particular Province, but all the Provinces. Therefore I think that, so far as the question of Sir Abdul Qaiyum is concerned, we cannot say that it is or is not covered. With regard to the division of the subjects before us, I do not think that we should enter into the division of the subjects at this stage. If we start dividing subjects at once it will lead to confusion. We had better have a general discussion first of all.

Sir Cowasji Jehangir: The reference to us is as to the powers of Provincial legislatures and executives. The point is whether this refers to Provincial legislatures in existence to-day, or to those which will come into existence in the future. If that point is cleared up we shall get an answer to the question raised by Sir Abdul. The question is an open one, to ascertain exactly what the Lord Chancellor meant.

Diwan Bahadur Ramachandra Rao: There are many other administrations—minor administration—which, it seems to me, our present terms of reference do not contemplate. Our terms of reference seem to relate to Governors' Provinces where there are legislatures, but there are four or five administrations without legislatures.

Chairman: If the terms of reference submitted are too narrow, then I will consult the Chairman of the Conference and the Lord

Chancellor, and as we go on with our work, if it is the desire of the Committeee to take up subjects that might not be included under the narrow interpretation. I shall ask their permission to see how far we may discuss them under a wider interpretation.

Mr. Joshi: Shall we be authorised to send our substitutes here when we cannot attend ourselves.

Chairman: I think that is the rule on all Committees.

Dr. Ambedkar: On looking through the heads you have circulated, I do not find anything which would give us the opportunity of discussing the composition of the Provincial Legislatures. I raised this point in the Conference, and the Prime Minister said it would be left to the Committee.

Chairman: There is a general feeling that this question should be considered under heading 9.

Mr. Chintamani: The Committee that will be set up to consider the problem of minorities will doubtless make its recommendation, but without prejudice to what recommendation it may make, and without considering the question of minorities, it is our province to consider the question of the electorates under the scheme.

Chairman: I do not propose to rule out anything in a general discussion, and if you can show us that there is something to be said for discussing the size and composition as well as the powers of these bodies, then I do not see why it should not be discussed. In the meantime I will have this question put as to whether we can regard No. 9 as covering the point which our friend has raised.

Sir Chimanlal Setalvad: The general points that arise are these. In the Provinces at present we have what I call reserved and transferred subjects. The question is whether in the future there should or should not be any distinction between reserved and transferred subjects. I submit the general feeling of India is that the time has now arrived when that distinction should go, and that all subjects should be transferred, and no subject reserved at all. All subjects in the Provinces, including law and order, should be transferred, and should be now administered by Ministers chosen from the elected members of the Legislative Council to which they would be responsible. Connected with that is a question which is of considerable importance. At present the Governor in the case of transferred subjects acts or is supposed to act on the advice of Ministers, but under the law, power is given to him to take action contrary to that advice if he so chooses. There is no limitation on that power, it is entirely at his own sweet will, if he thinks the particular action proposed by the Minister does not meet his approbation then he may take action contrary to the Minister's advice. I submit that that power should now go, and the Governor hereafter should be a constitutional Governor acting according to the advice tendered to him by his Ministers. When I say that I am quite willing that there should be some reserved power in the Governor, not in the ordinary day-to-day administration, but in emergencies when the security or tranquillity of the Province may be endangered

by any action the Minister proposes to take. But except in those circumstances, he should have no power, as he now has, to act contrary to the advice of the Ministers.

There is one other point of a general character which past experience has shown to be of considerable importance, namely, the control of the Services. No doubt the Services will form the subject of a separate investigation, because it is understood, as I said the other day, that the whole subject is Central as well as Provincial. But the feeling is, I submit, that the control of the Services should be in the Ministers in the Provinces. Whatever we may do about the recruitment of the Services, the feeling is that the recruitment should no longer be with the Secretary of State as at present. There are different notions as to how further recruitments should or should not take place, and whether it should be vested in a Central Government acting on the advice of the Public Service Commission which may be set up.

Whatever method may be adopted with regard to the future recruitment of the Services, it is felt that the discipline and control of those Services should be vested in the Provinces where the Civil Servants are engaged. At present if a Civil Servant or a Police Officer or any other member of a Service objects to any disciplinary action, for instance, which may be taken against him, he can go over the heads of the Ministers and appeal to the Secretary of State. That weakens the authority of the Ministers and of the Provincial Government, and therefore that question will have to be considered by this sub-Committee, though no doubt it forms the subject, or will form the subject, of a larger inquiry with regard to the Services as a whole.

A further question has regard to the composition of the Legislative Council. It is felt that the time has arrived when the official bloc should disappear. It may be that on a particular occasion where expert advice is needed certain experts, whether official or non-official, may be brought in for the particular purpose of the legislation concerned; but so far as the ordinary composition of the Legislative Council is concerned, the official bloc should entirely disappear and all the members of the Council should hereafter be elected members; and, as I have said, the Ministers should be chosen out of the elected members.

Further, it is felt that there should now be joint responsibility of the whole Ministry in the Provinces. At present it is a very divided responsibility, and the machine does not work as smoothly as it should. I consider, therefore, that the constitutional method should be followed; as soon as the elections have taken place and the Legislative Council is brought together, the Governor should send for any person or persons commanding a majority in the Legislature and select his Chief Minister. It should then be left, in the constitutional manner, for the Chief Minister to select his colleagues; and, as I have said, full responsibility of the Ministry to the Legislative Council should be established, and all subjects should hereafter be transferred in the manner I have suggested.

Mr. Fazl-ul-Huq: Before we proceed further, I deem it my duty to make one or two remarks in order that we may have the subjects of discussion strictly in view. I entirely agree with the last speaker, Sir Chimanlal Setalvad, that what he has now said represents the general feeling in India amongst all political classes. The difficulty is not with regard to the statement of general feeling in the country, but as to how to fit in the lines of advance with the various difficulties we shall encounter on the way.

Sir Chimanlal has said that the Governor's power of interference at discretion with the policy adopted by the Ministers should practically disappear. That is certainly very sound in principle, and it must be one of the bases on which full responsible self-government must be constituted. The difficulty however is—and we have got to face the fact, however unpleasant it may be to mention it—that in all the Provinces there are minority interests and other interests which at the present moment are distrustful of the manner in which the majorities or others may deal with their interests, if power is entrusted to them.

At the present moment I must admit that despite our efforts here in London, lasting over a month, we have not been able to arrive at any satisfactory solution so far as these complicated questions are concerned. Let us hope they may be solved, but they have not yet been solved; and to my mind some of the difficulties seem almost insurmountable. I submit that so long as those difficulties are not bravely faced and solved, not by British people but by the Indians themselves, it is absurd to say that the Governor's powers of interference should be taken away.

As an Indian, I feel greatly humiliated when I have got to say that I am forced by circumstances to take the view that the Governor's powers ought not to be taken away altogether. My friend himself has conceded that emergencies may arise when the safety of the Province itself is imperilled, and in those circumstances the Governor may have the power of veto. That is how the difficulty arises, for who is to judge whether a certain contingency of that character has arisen or not? Is it the Governor who is to judge, or the Ministers? Suppose the Ministers hold it is not an occasion where the Governor ought to interfere, and the Governor says that it is: who is to arbitrate between them? That shows at once that it is very difficult to draw a line of demarcation between the absolute disappearance of the Governor's power of interference and a limited power of interference vested with the Governor. That is a point which I think this sub-Committee ought to consider.

Sir Chimanlal has referred to the constitutional position, and he says that as soon as the elections are over the person who is the leader of the largest bloc, or the persons who may appear to command a majority, should be sent for and asked to form a Ministry. That is very good and sound in principle and very good in theory, and I do not see any particular difficulty about it; but there is one suggestion I should like to throw out for consideration by this

sub-Committee. I suggest we consider whether, in making recommendations to the Conference, we should not make a recommendation of this character: that the Ministry should never exclude minority interests or any other interests which it is necessary to have represented. It is not possible for me to formulate my point at the present moment; I speak subject to what may develop in the course of the discussion.

What I am afraid of is this. Take the case of a Province like the United Provinces, where the Hindus form 56 per cent., or the case of a Province like the North-West Frontier Province, where the Muhammadans form over 90 per cent. The Hindus in the United Provinces may form a Ministry without bestowing a single thought on the Muhammadans, and the Muhammadans in the North-West Frontier Province may form a Ministry without taking into account the Hindu members at all. Up to now, Ministry after Ministry has been formed in Madras without a single Muhammadan being included. I do not for a moment say that Muhammadan interests have been jeopardised, but we are coming in the future to a position where the official bloc will disappear or practically disappear; we are coming to a position where the interference of a third party is going to disappear; we are visualising conditions absolutely different from those which exist to-day.

It is no use pretending there are no difficulties in the way; do not let us deceive ourselves. I ask my friends here, as statesmen and practical politicians, to consider the difficulties and to look at every question not merely from their own point of view, but from the point of view of others. Let every Hindu member of this House consider every question from the Muhammadan point of view, and let every Muhammadan here consider every problem from the Hindu point of view. It is only by something of this description, by merging ourselves in the wills of others, so to speak, that we can really appreciate the difficulties and be in a position to suggest solutions for the problems which arise.

I submit it is no use repeating—and here let me emphasise that I mean no disrespect to Sir Chimanlal Setalvad—the theories which we read in the Nationalist Press. They are theories borrowed from England, many of which do not apply to our country. We must not be content with a slavish imitation of English institutions. There are many things in England I do not like; for instance, I do not like your weather! In the same way, there are some things I do not like in the English constitution. Let every difficulty be thrashed out frankly and sincerely, without prejudice and without heat. Do not let us hide from ourselves the difficulties which stand in our way. I submit that if we proceed in that way we shall come to some sort of satisfactory conclusion. I have indicated only one or two of the difficulties; possibly others will appear in the course of the discussion.

Sir Chimanlal Setalvad: With regard to what has fallen from my friend Mr. Fazl-ul-Huq, I should like to assure him that we are all very mindful of the difficulties that he has pointed out. It is

not that those difficulties are not present to our minds; they are, and we are determined to deal with them and surmount them.

So far as the interests of the Muhammadan and other minority communities are concerned, in the formation of the Cabinet, in the Services, and in many other ways, let me assure my Muhammadan friends and the other minorities that we are all of one mind with regard to the fact that ample provision and ample safeguards must be made to satisfy those minorities. If I did not refer to that, it was only on the ground that a separate Minorities Sub-Committee is going to be set up, and this will consider all these questions—safeguards with regard to the Ministry and safeguards with regard to many other matters which affect minorities. All that will be thrashed out in that other Sub-Committee, and ample provision will be made which will apply to the whole administration, from the Centre to the Provinces downwards.

Therefore, speaking for myself and for my friends who take the same view, I can take the liberty of assuring my Muhammadan friends and my friends from the other minority communities that every effort will be made to secure their satisfaction in the constitution we are going to evolve, and that they need not apprehend that any community, major or otherwise, will try to take any advantage over any other community. We are all here frankly to discuss the difficulties that exist, but we have the grim determination to surmount them all and to evolve something which will satisfy all sides.

Lord Zetland: May I venture to suggest that there is perhaps not really very much need for us to have a second reading discussion on the main question before this sub-Committee. The second reading discussion really only means this: Are the Provinces, possibly with certain reservations, to have autonomy. That is the main question before this sub-Committee. Surely it is no longer necessary to discuss that in principle; we may take it the principle is conceded. The Simon Commission Report laid it down in perfectly plain terms that the time had come when, subject to certain reservations, the Provinces of India should be granted autonomy. That being so, I merely rise to suggest that it is perhaps hardly worth while having a long second reading discussion on that main point, and that we should serve the interests of this sub-Committee best by coming down to the hard facts of the case and considering the heads which have been drawn up by our Chairman in the paper which he has circulated.

Chairman: I think there has been some misunderstanding. I did not invite a general second reading discussion on the big principle; I spoke of a general discussion on everything that is in this document. Rather than beginning with the first point and narrowing the discussion down to that, I thought it might be better if speakers could refer to the set of suggestions in this document as a whole. They might want to accept so many, to criticise others, or to put forward new suggestions. That is what I meant by a general discussion; it would have taken place on the basis of this document,

and I thought that after that we could begin on any of the points on which I had gathered the mind of the Committee. I am entirely in the hands of the Committee; I do not want to occupy your time and mine by having any unnecessary discussion. If you are willing now to start the consideration of this document, I welcome Lord Zetland's suggestion.

Sir A. P. Patro: I think there is no difficulty with regard to the principle; we all want Provincial autonomy. The Simon Commission, the Central Committee and the recommendations of the Government of India, as well as the All-Parties Report (the Nehru Report) all agreed that there should be Provincial autonomy. As to whether any safeguards are necessary in the exercise of Provincial autonomy, that is a question which we shall have to consider. Some of the points are put down in this paper which has been circulated, so I think we might as well go into the points which are there suggested and see whether we can accept or modify what is set forth or whether we can give any advice with regard to the difficulties which arise. The first question is, is it practicable to abolish the distinction between transferred and reserved subjects? Everyone accepts that there should be an abolition of such distinction. The next question is, what further subjects should be added to the provincial subjects? That will depend upon the decision of the Federal Committee. Next comes the question of what are to be the constitution and composition of the Executive. In that matter also there will be no difficulty, because we are all agreed more or less. It should be composed of the members selected from the elected members; whether from groups or from a majority party is a matter for consideration. In a case where there is no party which has a large following the question becomes difficult as to whether the selection should be made from the various groups from one single party which happens to have a majority. Those are details which will have to be considered.

The powers of the Governor are well-defined in the Government of India Act at present. We have to consider which of those powers should be eliminated. There are several powers reserved in the Government of India Act. Those powers are hardly exercised in many of the Provinces. Therefore we have to see from experience what powers should be retained for the Governor. If we reserve certain powers to the Governor, he will have to consult his Ministry before he can exercise his special powers. Even now special powers are reserved, and the Government does not exercise them without consultation. It is a matter of procedure—of give and take between the Cabinet and the Governor. You can lay it down generally that in consultation with the Cabinet the Governor will have to exercise these powers, but you cannot say that in all circumstances this procedure must take place.

The question of Services is very much confused. There are not Public Service Commissions formed in every Province. When such Commissions are formed the difficulty of discipline and control largely disappears. The question of Services ought to be elimi-

nated from party politics as soon as possible. In Madras we have been very anxious to see that these Services should not be under party politics. It is necessary that we should have Public Service Commissions, but also the recruitment should be in the hands of a Central Agency, and the nature of that Central Agency, whether the Central Government or the Secretary of State, is a matter to be discussed. With regard to the position in the Legislative Council, the fears which have been just expressed by my friend Mr. Fazl-ul-Huq are quite unfounded so far as Madras is concerned. In spite of the very small minority of Mussalmans we have been able to secure Mussalman representation in the Executive Council. It is very necessary to have competent men on that body who would work efficiently, but Mr. Fazl-ul-Huq would not be justified in criticising Madras on the ground that there is no such representation of Mussalmans in the Ministry. The Madras Government has got a Mussalman in the Cabinet. As regards the official bloc the Simon Commission recommends its abolition. The Commission says that it is unnecessary and undesirable to have an official bloc. As regards nominations there are certain powers which should still remain with the Governor for nomination in certain contingencies. I agree with the recommendation that there should still remain a small number to be nominated by the Governor.

Mr. Zafrullah Khan: With regard to the general subject that is before us, I think I might express the same view as previous speakers on the first heading, as to whether it is practicable to abolish the distinction between reserved and transferred subjects. I hope the Chairman will be able to rule that there is such unanimity on this point that a conclusion may forthwith be arrived at, and that the time has come when such distinction should disappear. I trust it may be taken as the opinion of the sub-Committee that we need not go into detailed discussion of this question any further. As most of us, I hope, will realise, the Provinces of British India would in the future be autonomous in their government. They would be Provinces which as far as purely local or provincial matters are concerned, would have the fullest authority to deal with those matters, and liberty to develop along those lines. The general principle may now be accepted that in these Provinces the Executive should normally and ordinarily be responsible to the Legislature, the Legislature being truly representative of the people. Starting with that, we shall find that certain general principles will emerge upon which I trust there will be no difference of opinion whatsoever, as, for example, to begin with, that the Executive should be constituted of members called Ministers or Executive Councillors, who, although they are appointed by the Governor, are drawn from among the elected members of the Legislature, and are themselves representative of, or are supported by, the majority of the Legislature. I have been careful to put it that way because I do not at this stage want to go into the question as to whether the Ministers shall in all instances belong to the largest political group in the Legislature, or whether their selection shall also be made with regard to some other principle.

But it is obvious that for a Provincial Government to be carried on on the Cabinet system, the Ministers must be so chosen that when they form a Cabinet together they can command a majority of the members of the House. Ordinarily it would be possible for the Governor to choose his Ministers from one political group, if that political group happens to command the majority of the votes in the Chamber, and from that group he can draw such Ministers as will probably represent at least the major religious groups in the Chamber. If that were possible, perhaps no difficulty whatever would arise, but it is not necessary to go into details at the moment so far as these difficulties are concerned.

The one matter I wish to bring to the notice of the sub-Committee at this stage concerns the appointment of Ministers. I think it deserves the attention of the sub-Committee. The question is whether the Governor should have the power, not normally and ordinarily, but under any contingency when the Province is being carried on on normal or ordinary lines, to appoint as a Minister someone who is not an elected member of the Legislature. We are all aware that the Simon Commission made a recommendation that the Governor should have power, if he so chose, to appoint one or more officials as Ministers or one or more non-officials who are not elected members of the Chamber as Ministers. That is one matter with regard to which I think we shall have to record a conclusion, and my own opinion is that the Governor should not have that power. Taking the detailed criticisms which have been levelled against the recommendations contained in the Report of the Simon Commission, probably no recommendation has been so much criticised as the recommendation that the Governor should have this power.

We are all aware that at present the Governor has power to appoint a non-official as Minister even if at the time he is not an elected member of the Legislative Council, but it is necessary for such a Minister within six months of the date of his appointment to get elected to the Council or to vacate the office to which he has been appointed. I think that provision sufficiently secures to the Governor the power to bring in anyone whom, for any reason, he wishes to include in his Cabinet, provided such a Minister is able, within six months of his appointment, to secure election to the Chamber.

I hope the sub-Committee will be very clear on the point that subject to this the appointment of Ministers shall be confined to the selection of elected members of the Chamber. Ministers should be chosen either from one party or from groups of parties so as to represent the majority in the Chamber, and they will naturally carry on until the dissolution of the House, whether automatic under the time rule, whatever that may be, or an earlier dissolution at the discretion of the Governor. There would be the usual stipulation that if the Ministry were defeated or censured (according to the procedure laid down) and lost the confidence of the House, they should resign.

So much for the composition of the Executive. There are some matters which have been alluded to which may be regarded as practically axiomatic, such as that when Ministries are formed they should always in future be expected to accept joint responsibility for their actions. We are aware that in the past that has not been the rule. In some Provinces joint responsibility was voluntarily accepted by the Ministers, but in most Provinces the Ministers are responsible only for the Departments committed to their care. I do not think there will be any difference on the point that in future Provincial Cabinets shall be jointly responsible to the House and shall be censured only jointly and not individually.

I should prefer not to lay down among the recommendations of this sub-Committee anything so definite as the necessity of always having a Chief Minister or appointing a Chief Minister in each Province; that is a matter with regard to which discretion might still be left in the hands of the Governor. It is a doctrine which has not, perhaps, developed to such an extent in the working of the constitution during the last nine years that it can be definitely said that in future the usual method for the appointment of Ministers should be for the Governor to send for one member who happens to be the leader of the largest group, or to command the largest influence, and then necessarily to be bound by his advice in the choice of his colleagues as Ministers. I think it must be left to the Governor to select such persons as he thinks will be able to command the votes of a majority of the House.

With regard to the composition of the Legislative Council, there are some matters with regard to this subject which will have to be dealt with by the sub-Committee which I understand is going to be formed to deal with minorities and special interests. For instance, there is the question of nomination, and there is possibly the question of the numbers in each Province, and there is the question of the official bloc. There again I think this sub-Committee will probably be agreed that nominations must be reduced to an absolute minimum. It may be that for some years it will still be necessary to nominate members to represent certain interests which may not, under the franchise which may now be framed, be able to obtain representation by the ordinary method of election. One thing, however, must be clearly laid down, namely that nomination shall never be resorted to to augment the representation of any interest which is also being represented by election. Nomination should clearly be limited to securing representation for such interests whose representation may be considered necessary, but which cannot conveniently be grouped together in any constituency and given the right to send representatives to the local Legislative Chamber.

With regard to the official bloc there seems to be general agreement—I do not think any contrary view has been expressed anywhere—*that in order to enable a Provincial Government to carry on* on autonomous and responsible lines, the time has come when the official bloc as a voting bloc should disappear from the Provincial

Chambers. Permanent or temporary nomination may be necessary to secure a small number of expert members having the right to speak in the Chamber, and whose services it might be necessary to secure either on particular occasions or throughout the Session to give such information and advice to the Legislative Council as may be necessary, either on expert administrative matters or on such other technical matters as may arise for discussion, on which the members may not be so well equipped as the experts would be.

There is one very important matter which would require detailed discussion and with regard to which difficulties might arise, namely the special powers of the Governor both with regard to executive measures and also *vis-à-vis* the Legislative Council. In executive matters it has been stated by two previous speakers that it will still be necessary to invest the Governor with special powers of interference, or powers which may be described as overriding powers, having regard to the special circumstances which have to be faced in India. As a general statement that is no doubt true, but I hope the sub-Committee will come round to the view that the matters in respect of which such powers are left in the hands of the Governor must be very clearly defined, so that it can be easily ascertained (both by the Governor himself and by those who may be disposed to criticise his action) exactly what is the sphere in which his interference is permissible and whether his interference is or is not justified by the terms of the Statute or by the other instructions laid down. Such powers should not be left to any further definition or left very much to the discretion of the Governor himself to define. Naturally the question of whether to exercise those powers or to refrain from exercising them should be left to the discretion of the Governor, but there should be no ambiguity with regard to the spheres in which he can interfere when occasion arises.

One such occasion for interference which has been suggested is in order to secure the safety and tranquillity of the Province. I think those terms are rather vague, and I would far rather say that if necessary I think there is no harm in the Governor having power to override the action of his Ministers in the department of Law and Order. That is something definite, but " in order to secure the safety and tranquillity of the Province " is so indefinite and general that anything might be twisted into a matter affecting the safety and tranquillity of the Province, and thus justifying interference.

I do not mean in this general discussion by any means to try to exhaust the topic of the special powers of the Governor, but I put this matter forward as an instance that whereas all of us may be agreed that the Governor should have certain powers, we should also further agree that those powers should be strictly defined, so that no doubt may exist as to the meaning of the definition or the scope of the powers in question.

In the legislative sphere the Governor should certainly have the power of vetoing any piece of legislation which the Legislative Council has passed, as well as the usual power of referring it back for consideration and so on, which, with regard to legislation, he

24641
29 AUG 1968

UNIVERSITY OF NORTH BENGAL
LIBRARY
RAJA RAMMOHUNPUR

at present possesses. With regard to the special power of certification which the Governor has at present, I think it would have to be reduced to certification with regard to items related to matters for which he has overriding powers. For instance, I have suggested that one sphere in which he should have overriding powers and powers of interference might be the department of Law and Order. If he has the power to override advice given to him by his Ministers in this department, it follows that, if he interferes in, for instance, the matter of the numbers or the equipment of the Police force in the Province, he must also have the power of certification with regard to it. Once having overriden the advice of his Ministers he will probably be faced with a crisis in the Legislative Chamber, for the majority who are supporting the Ministers would naturally resent the interference of the Governor; and if he has not the power to certify with regard to matters in which he possesses overriding powers, those powers would probably be rendered nugatory. I think, therefore, he must have the power of certification with regard to those matters, but his power should be limited to those matters.

Those are the general observations which I wish to put forward at the present stage of the discussion.

Sir Cowasji Jehangir: May I suggest that we proceed immediately to consider details? All these remarks which are now being made will have to be made when we consider the details.

Chairman: If that is a question on which you want my ruling, I do not accept it.

Sir Cowasji Jehangir: I do not ask for your ruling, Sir; I am merely making a suggestion.

Chairman: I think there is an advantage in having such speeches as that which has just been delivered. We shall find out the points where there is almost complete agreement, and when another stage is commenced I shall be able to say " Is it necessary to have further discussion on point A or point B, because everyone seems to be agreed? " and therefore those points would be disposed of. This procedure does not waste so much time as one might imagine.

Sir Cowasji Jehangir: There is one point on which I should like to ask for your ruling, Sir. I see " Rights of minorities " are put down here. If we are to discuss the rights of minorities on all these other sub-heads we shall be trenching upon the subject matter which has been referred to another sub-Committee. I should therefore like to know why the subject of the rights of minorities was placed in this list. Was there any particular right of minorities that we were expected to discuss, or are we to discuss the rights of minorities under all these sub-heads? I should like to know whether we are to confine our attention to rights of minorities as a whole or in regard to any particular matter.

Chairman: There are certain aspects of the minority question which must arise in connection with the discussion which is going on with regard to the Provinces, and to that extent it is permissible

to deal with the matter in this general discussion. When we come down to any special item it will of course be necessary for me to give a ruling as to whether the discussion is not one which is outside the province of this sub-Committtee.

Mr. Jadhav: I am happy to say that I am in general agreement with the remarks made here by my friends who have had the opportunity of speaking before me, so that I need not take up unnecessarily the time of this sub-Committee by going over them again. I shall simply say that the distinction between the reserved and the transferred subjects ought to be abolished.

With regard to the second point, the constitution and composition of the executive, I agree with previous speakers that the executive should consist of Ministers chosen from amongst the elected members of the Council.

So far as the question of the powers of the Governor is concerned I should like to say a few words on that point.

The present discussion has led me to believe that many of the speakers favour the idea that the future head of the Executive should be the Governor and the Ministers should be his advisers. I do not subscribe to that view. In a case I have in mind the position of the Ministers was looked upon as inferior to that of the Executive Councillors, and there was constant friction on that account. The interference of the Governor led to the unpopularity of that system. In the future constitution the Governor should be more or less a constitutional Governor. The administration should be carried on by Ministers who are responsible to the Legislative Council, and the Governor's powers of interference or over-riding should come into operation only when there is a deadlock or serious trouble or breakdown of the constitution. In no other case, I think, should the Governor have power of interference. The administration should be carried on by Ministers who are responsible to the Legislative Council, and if their policy is not favoured by the public they will be driven out at the next election, or even, if their policy is not liked by their colleagues in the Legislative Council, a vote of " no confidence " may be passed and the Ministry turned out.

The powers of the Governor with regard to the Legislature should be confined to a very few things. I do not think that in future the power of certification will have to be used, or, if used, it will be very rarely. Provision should be made for such powers, but one may expect that they will lie dormant, and the convention may arise that the powers are not to be exercised.

As to the provisions necessary to safeguard the administration of law and order and the rights of minorities, I need not say anything further after this subject has been so fully dealt with by my friend Sir Chimanlal Setalvad.

The third point is whether all special powers should be exercised by the Governor or whether some should be exercised by the Executive as a whole. The Executive will be responsible for the administration of the Province and its advice ought to be taken, but if the

action taken by the Executive collectively is to be set aside by the Governor, he will not get the support of the Executive, and, therefore, he will have to take the action independently on his own responsibility. If there is a clash between the Governor and the Ministry, then the Viceroy will have to set up arbitration.

As to the fourth heading, as to how the Governor should obtain advice necessary for the exercise of his special powers, I think this raises a question whether there should be a Second Chamber or a separate council of certain members. That has been hinted at in the Simon Report. I do not think there should be a Second Chamber in the Provinces. My Province has never supported that idea, and I for myself would not suggest that there should be a Second Chamber.

With regard to some special panel of officers to be created for the purpose of giving advice to the Governor, I must say that I also do not support that view. The Governor should take the whole thing on his own responsibility.

With regard to heading No. 5, I need not deal in detail with this, because the question of emergency powers will have to be determined in discussion later on.

Mr. C. Barooah: I rise merely to make mention of one point that has been touched upon by other speakers, though, I think, it has not been emphasised sufficiently, namely, the recommendation of the Simon Commission to give special power to the Governor to appoint Ministers from the officials. No part of the Simon Report has been so seriously objected to by all sections of the Indian people. It means the taking away with one hand what is given with the other. I beg you to report to the Conference that this Committee is very strongly against this recommendation. With regard to the Second Chamber, I have simply to state that neither the Government of my Province nor the people desire to have it. As regards the general observations, I support every word that has been said by Sir A. P. Patro.

Dr. Ambedkar: I propose to divide my remarks under three heads: (1) Provincial autonomy, (2) responsibility in the Provinces, (3) provincial services. I make a distinction between provincial autonomy and provincial Services. It seems to me that the question of provincial autonomy raises the definition of the relations of the provincial Executive and Legislature *vis-à-vis* the Central Government and the Central Legislature. The first remark I would offer on the subject of provincial autonomy is that I am in sympathy with the attitude of those who hold that the time has arrived when the provincial governments ought to be left with as complete an autonomy as is possible under the circumstances, and they should be free from such control as the Central Government now exercises. But, Sir, I cannot help making this further observation, that viewing the problem of provincial autonomy from the standpoint of the particular class I represent in this Conference and of the interests of India as a whole and the working classes in particular, I think that in any future constitution that we propose to devise for

endowing the Provinces with provincial autonomy we must take into consideration certain facts which are bound to limit the character of that autonomy.

The first limiting factor in the provincial autonomy is that it must be made subject to such questions of a provincial character which are, although provincial in nature, also of an All-India character. The Provinces may have their say with regard to these subjects, and yet the Central Government should not be excluded from its jurisdiction with regard to them. For instances, I would like to draw an illustration from labour legislation, legislation affecting tenants and affecting agriculture. These, no doubt, in a country like India, must become provincial subjects, yet I do not think they can be viewed entirely from such a small compass. They cannot be regarded as entirely provincial and without an All-India character. The Central Government must have some jurisdiction over subjects of this character, notwithstanding that it cuts across provincial autonomy.

Secondly, I should state that in dividing the powers of government between the Central and the Provincial Governments in the future constitution of India with a view to giving the Provinces as complete an autonomy as possible, it will also be necessary that such powers as remain undefined must be left with the Central Government. Well, I do not think that there is no other view on that point. But I say that in the present situation in India, where the separatist tendency exists to such an extent as we all know it, where provincial and local parochialism is more dominant than national feeling, while we are building up a Federated India with complete autonomy of the units, we still have the problem of making India as a whole a strong and united country. I would make this further observation, namely, that I do not think that the reservation of powers in the Central Government is likely to affect the autonomy of the Provinces. The reservation of powers as interpreted by the Judicial Committee of the Privy Council in the case of Canada has not had this overriding effect. It means a power that comes into existence in an emergency in a field not specifically allotted to the Provinces. I do not think that the Provincial autonomy should be really affected.

The second thing I should like to observe in connection with this question of Provincial autonomy is that that autonomy must be limited by the affording of protection for the interests of the minorities and of the Depressed Classes. As I visualise the situation in India as it will result from the new constitution, I find there will be certain Provinces in which some communities will be in a majority, but in all the Provinces the Depressed Classes, whom I represent, will be in a minority. They will be in a minority in every Province. I cannot understand how we can at this stage permit the Provincial majorities to have a complete, uninterrupted and undiluted sway over the destinies of these poor people, without any right of appeal being given to the latter in regard to mal-administration or neglect of their interests. There must be some authority

somewhere, over and above the Provincial Government, which will be in a position to intervene and rescue them from any adverse position in which they may be placed by the Provincial majorities.

These are the three things which, in my opinion at any rate, must limit the autonomy of the future Provincial Governments of India.

Coming to the question of the character of responsibility in the Provincial Governments, my first observation is that the whole question of responsibility in the Provincial Legislature is entirely dependent upon the kind of Legislature that you are going to get in the Provinces. If the Legislature that you are going to get in the Provinces is a Legislature which is going to be a mirror of the whole population of the Province, if it is going to be thoroughly representative and not merely representative as a museum is, where there are a few specimens of every species for the observation of the general onlooker; if every minority and every class which fears its existence will be jeopardised is placed on a position to make its influence felt, than I think in a Legislature of that sort there will be no harm in conceding the principle that Provincial responsibility may be introduced to the fullest extent. That is my first observation.

Making that a condition—that the Legislatures shall be fully and adequately representative of all the classes—I see no objection to the subjects which are now reserved being transferred to popular control.

Coming to the question of whether the responsibility in the Provinces should be joint or should be individual, I have not the slighest hesitation in saying that the responsibility not only should be joint but must be joint. I have been a member of a Legislative Council, and I have seen how Ministries in the Provinces have worked. It has been a most painful experience for me, as it has been the experience, I believe, of many of those who have had the misfortune or the good fortunte to be members of a Legislative Council, to find that Ministries have been working as a kind of loose confederation, without having any complete or unanimous view on a particular policy which they adopted. There have been divided counsels, and cases of Ministers not being very willing to support each other.

What has been the result? The result is this, that in no instance have we had any considered policy put forward by the Cabinet as a whole, worked out in detail and placed before the Legislative Council. Things have been done by fits and starts, and I do not think we want our responsibility in future to be bungled in that fashion.

Turning now to the question of communal representation in the Cabinets, I must confess that I am not very much drawn to the suggestion which is often made that there should be communal representation in the Cabinet. I am not, of course, oblivious of the fact—in fact, I am very conscious of it—that if the minority communities are not represented in the Cabinet it is very possible, and

even very likely, that in matters of administration which affect their daily lives their interests may be affected very prejudicially by the policy of Ministers whose dominant interest is communalism. I do not forget that for a moment, but my submission is that there is a better way of dealing with that sort of evil, and it seems to me that if the minorities could get constitutional and statutory guarantees laid down in the Constitutional Act itself against anything likely to injure their interests being done or left undone by the Cabinet, the danger which most of us apprehend from the fact that the Cabinets may be communally dominated will vanish, and we shall not have much cause to insist on communal representation in the Cabinet.

Although I am very desirous that the Chief Minister, whoever he is, should recognise or should be made to recognise the interest of having most of the important minorities represented in the Cabinet, we cannot for the moment forget that, after all, a Cabinet office is a very responsible office. A Cabinet Minister has not merely to look after the interests of the minorities; he has to see to the safety and interest of the Province as a whole. That demands ability and competence; it does not merely demand a communal outlook, and it is from that point of view that I look at the matter. I should like to have the interests of the minorities and the Depressed Classes safeguarded in such a manner that constitutionally it would be impossible for Ministers drawn from the majority communities to do anything prejudicial to the minorities or to neglect their interests.

Coming to the question of the relations between the Governor and his Ministry, I think one thing is obvious, namely that no constitution, if it is really to embody full responsible government and collective responsibility, can permit the Governor the power to interfere in the day-to-day administration of the country. That would run quite across the system of responsible government and collective responsibility. The Ministry must be allowed to carry on the day-to-day administration on the basis of joint responsibility.

When we come to the question of the emergency powers which it is suggested should be left with the Governor, I find myself in a somewhat difficult position, because I do not understand exactly what is meant. Is it meant that when an emergency arises the Governor should simply dismiss the Ministry and have nothing to do with it, and should promulgate whatever laws, ordinances or measures he thinks are necessary to meet the situation, notwithstanding the fact that they are opposed by the Ministry? I do not know what is wanted. I can quite understand the Governor should have the absolute, undoubted and unrestricted power of dismissing a Ministry which he thinks is not acting in the best interests of the country, but I cannot understand how there can be responsible government in a Province in which the Governor is allowed to do a thing without a Ministry. It is one thing to say that the Governor should have a Ministry with which he agrees in a particular

emergency, but it is quite a different thing to say that when an emergency arises the Governor should simply disregard the Ministry altogether. I think this point will have to be worked out in some detail, for, as I say, I do not quite understand it.

Coming to the question of the Services, there is one observation I am bound to make. I quite agree in principle that with provincial autonomy the power of regulating the Services in a Province should belong to that Province, and that the Provinces should have full liberty to Indianise the Services as they desire and according to their means and circumstances. The observation which I feel bound to make, however, is this: I cannot forget that Indians are communally minded. We do hope—it is only a hope—that a time will come when all Indians will cease to look at problems from a communal point of view in administrating matters which are left to their charge, but that is only a hope; it is not a fact. The fact is that Indians do discriminate between class and class, community and community, in administering such discretion as is left to them in their administration of the law. That is a fact I cannot get over; it is a fact from which I have suffered immensely. My fear with regard to the future constitution of India is that having regard to the present position of the depressed classes, having regard to the fact that education is not widely spread amongst them, and having regard to the fact that there is hardly a single individual holding a gazetted post in the Bombay Presidency, for instance,————

A Member: There is one.

Dr. Ambedkar: Yes, there is one, and that is the exception which proves the rule. You know how much trouble I had to get him in! I very much fear that this Indianisation may work out as a tyranny, and therefore, from my particular point of view, I should like to emphasise that at any rate for some time it will be necessary to maintain a British element in the Services. I do not say there should be no Indianisation, but I do say that, having regard to our interests, it should be rather slower than some people desire it to be.

These are the general remarks that I wish to offer from our point of view.

Raja Narendra Nath: I did not intend to make any remarks in this general discussion, but after hearing the speeches to which I have listened I cannot remain silent. I am fully aware of the general demand for the transfer of responsibility, and I am in full agreement with the majority of the speakers who have given expression to their opinions.

The question of joint responsibility has been dealt with, and most of the speakers have advocated the propriety of that principle. I myself think that there can be no responsible government in the proper sense of the term unless the principle of joint responsibility is fully enforced. But I am in agreement with the last speaker

when he says that so far the principle of joint responsibility has only been nominal. If the principle of joint responsibility has anywhere worked satisfactorily it is in the Province of Madras, but in other Provinces this principle cannot work under the existing structure. I do not wish to anticipate the recommendations of other sub-Committees, and I wish to avoid questions of a controversial nature, but in most of the speeches I have heard to-day nothing beyond what has been proposed by the Government of India in their Despatch has been advocated. Even in that Despatch I draw your attention to the concluding words of paragraph 46: "It has been admitted that in some Provinces we anticipate that cabinets may for some years to come require to be formed definitely on coalition lines." I do not wish to go into details, nor, as I have said, to anticipate the recommendations of other sub-Committees, but this concluding sentence of paragraph 46 is full of meaning, and I wish to remind those gentlemen who have advocated the principle of joint responsibility that if the structure of the Council remains what it is, joint responsibility will not be enforced in all Provinces; it will not be possible to enforce it.

The last speaker has referred to the case of minorities, and although between the minority which I represent and the minority which he represents there is a great distance, still I am in full sympathy with him that the interests of the minorities are apt to be neglected unless proper safeguards are adopted. The inclusion of persons in a Cabinet representing minorities is no doubt a sound principle, and one way of safeguarding minority interests, but it is inadequate. The appointment of Public Service Commissions has been suggested by the Simon Commission, and also recommended by the Government of India, but even that, in my opinion, is not sufficient. There must be some definite pronouncement in the constitution itself declaring minority rights unassailable by a majority community, whether that majority is of race or of creed. I know that on the question of minorities there can be no difference from the religious or racial point of view; we are all united on that point. I hope that the present discussion will help to dispel any mutual suspicions and unite the minorities all on one point.

Sir Chimanlal Setalvad dwelt on the necessity of the vesting of disciplinary action in the Ministries. He was of opinion that if the Services under a Ministry were to work in proper subordination, the power of disciplinary action should be vested in the Ministry. That was perfectly true, but there is one exception. It depends upon the source of recruitment. If the recruitment is from abroad, and persons have come on a certain covenant and agreement it will be difficult to have the same rules of discipline over them as over the Services recruited locally. As the discussion develops I may be able to contribute something further.

Chairman: The hour has arrived when we should terminate this sitting. If it meets your convenience I would suggest that the sub-Committee meet again tomorrow morning at 11 o'clock. (Agreed.) I may add that the sub-Committee should reconcile itself to sitting

on the morning and afternoon of Monday and probably on other days of next week.

(The sub-Committee adjourned at 1 p.m.)

PROCEEDINGS OF THE SECOND MEETING OF SUB-COMMITTEE NO. II (PROVINCIAL CONSTITUTION) HELD ON 5TH DECEMBER, 1930.

Chairman: I want to make a statement with regard to some of the points that were raised at our sitting yesterday. A point was raised, I think, with regard to the list of Provincial subjects. These questions are primarily for the Federal Structure Sub-Committee and should only be discussed in the Provincial Constitution Sub-Committee to the extent which is absolutely essential to get a clear picture of the Provincial constitution. As proposed by the Prime Minister, co-ordination on this subject between the two sub-Committees can be achieved only by a joint meeting at a later stage. That is the position so far as that question is concerned.

I think something was said with regard to the franchise. So far no provision has been made for the consideration of this subject, but I think it is clear a sub-Committee will have to be set up, and I am hoping that that sub-Committee will be set up at an early date, possibly at the next meeting of the Business Committee.

With regard to the composition of Provincial Legislatures, sub-Committee No. II cannot well avoid considering such points as the size of the Provincial Legislature and the elimination of the official bloc, but questions of communal representation and the representation of special interests in the legislature ought, I think, to be deferred for the consideration of the Minorities sub-Committee.

I think there was a question raised yesterday morning with regard to the North-West Frontier Province. The question of the constitution contemplated for this Province could be dealt with by sub-Committee No. II after it has accomplished its main work, but on the whole it seems better, subject to the agreement of the Committee of the whole Conference, to set up a separate sub-Committee to deal with this question after sub-Committee No. II has reported, the terms of reference being: "What modifications, if any, are to be made in the general Provincial constitution to suit the special circumstances of the North-West Frontier Province." I hope that will be accepted.

With regard to our proceedings to-day, taking item 1 of the list I submitted yesterday, namely, "Is it practicable to abolish the distinction between reserved and transferred subjects?" I think we can say there is general agreement that that distinction should be removed.

Lord Zetland: On that point, of course, one very important question arises, namely the question of the transfer of Law and Order. Surely that is a question which will have to be considered?

Chairman: That is so. Speaking generally I think we could agree that the distinction should be removed, but anything that we do in this sub-Committee must fit in to the whole scheme that will eventually emerge from the other sub-Committees, and the question of Law and Order might be one of the subjects that would have to be fitted into the whole scheme. I do not know that I can say at this moment that that subject should be definitely reserved.

Lord Zetland: My point is this. The first point you have put down, is " Is it practicable to abolish the distinction between reserved and transferred subjects?" I should certainly say with regard to some subjects that it is practicable, but I should not be prepared at this stage to say that it is practicable with regard to all subjects, and the important subjects which I have in mind, of course, is that of Law and Order. That is one of the most important questions of all, and I should have thought that question arose for discussion under this heading, unless you suggest, Sir, that it should be discussed under some other head.

Chairman: If the general statement that I have just made is not acceptable, then of course we will discuss it now, because I was going to pass on—keeping in mind that everything must eventually fit into the whole scheme—to discuss items (*a*) and (*b*) under No. 2. Unless there is general agreement with regard to what I have said on the first paragraph, then of course we must discuss it.

Mr. Wood: If the general discussion were allowed to proceed for a short time longer, these points might be brought out. We have heard only about four people, and no points such as Lord Zetland has raised have really emerged. I thought the idea of the general discussion was to bring out points of difference so that we might then decide whether we could accept the general principle of the transfer of all subjects. Personally I should like to say a word or two in the general discussion and refer briefly to this question of Law and Order which Lord Zetland has raised and possibly he himself wishes to speak on that subject, before we can say whether we accept the general principle of transfer.

Chairman: I gathered yesterday there was a feeling we might pass away from the general discussion and get down, as Lord Zetland suggested, to dealing with the various points that are raised in this list of subjects which I put before the sub-Committee at its opening meeting yesterday morning. Whatever has to be said with regard to the question of Law and Order can be said on this first item just as well as in the general discussion. I feel sure I interpreted the wishes of the Sub-Committee correctly when I said we were satisfied we could accept the suggestion Lord Zetland made yesterday morning and commence to take these questions separately.

Mr. Wood: I think there are several people who would like to raise certain points which they would wish to have specially discussed later on, with the object of concentrating attention on those particular points.

Chairman: You will not be debarred from doing that as you go through the separate questions. I am quite in the hands of the sub-Committee, and if you want to give up more time to a general discussion I must accept your view, but it seems to me you are with me in thinking that we should now proceed to deal with these questions one by one.

Mr. Wood: If that is the case may I ask about a subject which was dismissed yesterday as accepted. A certain opinion seemed to be accepted without any argument on the subject of Second Chambers.

Chairman: I beg your pardon; no question was dismissed at all. It may have been referred to in some of the speeches, but there has been no question of dismissing anything.

Mr. Wood: I mean, referred to in the speeches.

Chairman: Yes, but that does not mean that anything has been dismissed; at the appropriate time you can raise that issue. We will now discuss the question of whether it is practicable to abolish the distinction between reserved and transferred subjects.

Mr. Chintamani: Have you invited discussion on this point?

Chairman: Certainly.

Mr. Chintamani: I think there can only be one answer to this question, and that answer is in the affirmative. I go further and say that it is not only practicable to abolish the distinction between reserved and transferred subjects but that it is desirable to do so; indeed, it is necessary and indispensable.

One very interesting point in connection with the working of Provincial Governments under the present constitution is this. Dyarchy has succeeded in the Provinces in the measure in which in actual administration there has been no dyarchy. Wherever a Governor has treated the whole of his Government, Members of the Executive Council and Ministers, on a common footing, and has placed before meetings of the entire Government all important questions which have come up for consideration, and has abided by the judgment of the majority of his colleagues, by whatever name they were known, there, in that Province, the Government have succeeded in carrying on the administration smoothly and with the maximum of support from the Legislative Council.

Where, on the other hand, the letter of the Dyarchical constitution was strictly adhered to and Ministers were kept at arm's length, they had trouble with their Council and their measures were unpopular in the Province.

There is another peculiar feature in connection with the working of the system of dyarchy to which I think I should invite your attention. Under the present constitution the Governor is left as the sole and absolute master to determine in connection with what questions he will take the Ministers into consultation, and at what stage he will not do so. It depended on the varying mind and

mood of the Governor whether Ministers were throughout in consultation or throughout kept out, or whether, in connection with the self-same subject, they were brought in at intervals and kept out at other times.

Responsibility was blurred, as it were, and at different times Ministers were in and out, and the Legislative Council could not definitely know to what extent those members of the Government who in law were responsible to it could be held accountable for the decisions of the Government or of the Governor in Council. As was pointed out by the Governments when the Montagu reforms were under consideration, there is so much inter-dependence of subjects under all Provincial Governments that it is impossible to make a clear cut. Take, for instance, the financial question. It was understood at the beginning that finance would be neither Reserved nor Transferred, but common to both halves of the Government. Finance was made a Reserved subject and it was laid down that no Minister should hold the Financial Portfolio. Therefore the Transferred subjects and the Ministers in charge of them were at a considerable disadvantage in comparison with executive councillors and the subjects under them, when it came to the distribution of Provincial Governments between one branch and another. It has been almost an insulting provision in the rules under the Act that a man, however competent, should be ineligible to hold the position of Finance Member simply because he was a Minister and not a member of the Council. One reason that was given was that it would be difficult to find in the ranks of the elected members of the Legislative Councils men competent to hold the position of Finance Member. But, Mr. Chairman, if you run your eye through the names of various Provinces during the last ten years, and take a little more trouble to find out the results of financial administration, in Province after Province, you will inevitably come to the conclusion that it has not been such a pleasant thing to the Provinces to have I.C.S. financial pundits as finance members, and to have debarred every Minister from the charge of that subject. The people of the Provinces have made up their minds, first of all, that there shall be an end of this plague of a Dyarchical system, which does not work as a strictly Dyarchical system, and if it is not worked as a Dyarchical system leads to chaos and confusion. Another point on which the people have made up their minds is that the Unitary Government to which they aspire shall be a Government representative of, and responsible to, the Legislature. I do not think that any difficulty will be experienced in actual administration in working this proposition into details of rules or provisions of the Act. I was glad and relieved yesterday to find that the noble Marquess—who, if he will permit me to say so, was such a highly successful and popular Governor of one of the most difficult Provinces in India, and who most pleasantly belied the apprehensions which had existed by the manner of his administration—said yesterday that it was common ground that the distinction between the Reserved and the Transferred subjects was impracticable and should be abolished. The Simon Com-

mission had, he said, recommended it and the Government of India had approved of it in their Despatch. He will, however, pardon my saying that the kind of responsible Government that the Simon Commission recommended is, in truth, nothing but a bogus Provincial autonomy with reservations, qualifications and safeguards recommended by the Commission. All representative powers were to be in the hands of the Government, as was also the election of other members, and the I.C.S. Secretary would be more like a spy upon a minister than anything else. Thus, taken all together, these provisions negative the value of the kind of autonomy which the Commission recommended. When we unofficial Indian public men speak of autonomy and Provincial Government, we have in mind something very different from what the Simon Commission contemplated. I hope this point will be borne in mind all along the line, when the assumption is made that the Simon Commission and we are on common ground in regard to Provincial autonomy. Moreover, no revision of the Government of India Act will be of any value whatsoever unless the provision is made that we shall have unitary responsible governments in the Provinces, unhampered by restrictive provisions in the name of safeguards. Let not reform be afraid of itself!

Sir Chimanlal Setalvad: I agree with my friend concerning the proposals of the Simon Commission with regard to Provincial autonomy. If we are going to have it, let it be a real Provincial autonomy, and not merely a name. I am afraid that the proposals of the Simon Commission reduce it merely to a name. If the Government is to have all the Reserved powers that they recommended; if a considerable portion of the budget items are still to be non-votable; if officials are to be ministers, and if all the rest of the provisions are to be put into effect; then it is no longer possible to call such an administration Provincial autonomy. I therefore submit that the time has arrived when that distinction ought to go entirely.

With regard to the point raised by Lord Zetland concerning Law and Order, I venture to submit that it falls into two divisions. In one there is the general principle of whether this distinction should be abolished. If that conclusion is once arrived at, then what are to be the safeguards? For this reason Law and Order are specifically mentioned. This should therefore wait for a later stage, when we have arrived at a general agreement that this distinction should be abolished, and that all subjects should be transferred. It will then be possible to consider certain exceptions.

At present what happens with regard to ministers is this. No doubt the Montagu-Chelmsford reforms intended, when certain subjects were to be transferred and administered by the ministers, that the ministers, and the Legislative Council who have elected them, should have real control over the transferred Departments. In practice, however—and partly as a result of a certain provision of the Act to which I shall allude later—although the members of the Council were each in charge of a Department, nevertheless every action that was taken was taken in the name of the Governor in

Council. The result was that, if a member in charge of a department disagreed with the Governor, he had the right to have the matter brought up for discussion before the whole Council. If he could persuade his colleagues to adopt his view, he could thus secure a majority in the Council.

Further, in certain instances, that Member of Council had the privilege, if the majority was against him, of having his view on certain matters submitted to the Indian Government.

Contrast that position with regard to reserved subjects with the position of a minister with regard to transferred subjects. In matters concerning transferred subjects, the Governor is the person who conducts the administration. It is said that he conducts it "with the advice of the Ministers," but if the Governor disagrees with their advice, it is entirely open to him to act contrary to it, and the minister has not even the safeguard of convening the whole Ministry, as a member of the Council can convene the Council. The Governor, therefore, became, in respect of transferred subjects, practically an autocratic ruler who was not bound to follow the advice of the minister, and the minister had no redress. The position is very clearly put in Section 52, clause 3, of the Government of India Act:—

> "In relation to transferred subjects, the Governor shall be guided by the advice of his ministers unless he sees sufficient cause to dissent from their opinion."

There is no qualification there; he must see sufficient cause to dissent. If he sees cause he is not bound to follow their advice, in which case he may require action to be taken otherwise than in accordance with their advice. In practice, this position rendered the ministers absolutely impotent in matters of policy where the Governor took a different view; they were over-ridden and the Governor's view prevailed. The result was that the Legislative Council, whose confidence the ministers possessed, was also in effect set aside. I submit that, if there is to be real popular responsibility and real Provincial autonomy in the right sense, these provisions must go, and in departments transferred—and we say that they should all now be transferred—the ministers, with a joint responsibility, should have the final voice in carrying out the administration, the Governor being merely a constitutional Governor.

No doubt it may be necessary in certain matters to have a reserved power—as my friend pointed out—in Law and Order or with regard to any matter which may affect the peace and tranquillity of the Province. This should be clearly defined. It might be necessary to reserve certain emergency powers to the Governor. But beyond that, in the ordinary day-to-day administration of the Province, in settling the policy to be pursued in various matters, the Minister's voice should prevail, the Governor only acting as constitutional Governor.

Chairman: I should like to know whether, in view of the two speeches which we have heard, we could not dispose of Question 1,

seeing that almost any point concerned in it can be dealt with under the sub-headings of Question 2. I do not know whether his Lordship would like to discuss his point on Question 1, or whether he would defer it until we consider sub-heading 2 (1), The Administration of Law and Order.

Lord Zetland: I am quite prepared to defer my point until the discussion of Question 2, if you think that is more convenient. It makes no difference to me.

Chairman: I think that the general opinion would be that Question 1 should be accepted: that we agree that, generally speaking, it is desirable to remove the distinction. We can therefore now discuss Question 2 (*a*): The Constitution and Composition of the Executive. I do not know whether the sub-Committee would like to discuss (*a*) separately from (*b*), or whether (*a*) and (*b*) should be the subject of one discussion. That, again, is entirely in the hands of the sub-Committee.

Sir A. P. Patro and *Mr. Jadhav:* They should be discussed separately.

Sir Chimanlal Setalvad: If we had decided on Question 1, would it not be more convenient to take the second part of Question 2 first?

Chairman: I should prefer to take the questions in the order in which they appear. I think that considerable advantages are to be obtained by first deciding on the Constitution and Composition of the Executive.

Sir Ghulam Hussain Hidayatullah: Yesterday, in the general discussion of this point, there arose divergence of opinions. In my opinion the powers of the Governor in regard to the Constitution and Composition of the Executive may be left unrestricted, provided that he form a ministry out of the elected members. It is generally said that we have not developed parties on principles of policy. That may be true in some places, but there are Provinces where parties exist. In those Provinces a Governor can elect a Chief Minister from a party knowing that that party enjoys the confidence of a large section of the Legislature, and can, in consultation with the Chief Minister, elect the other ministers. At the same time, he ought to have the liberty, in those Provinces where he cannot form a powerful ministry which can enjoy the confidence of most of the members of the Legislature, to form a ministry out of various groups; that is, a sort of coalition. In both cases, however, the ministries should be jointly responsible to the Legislatures.

Sir P. C. Mitter: The relevant points are: first, whether there should be official ministers. That is the recommendation of the Simon Commission concerning the Executive. We are all of opinion —at any rate I am, and I believe that many of my friends here will agree with me—that the scheme of the Simon Commission with regard to an official minister will never work. The official bloc

will no longer be there. The very existence of the official minister will place him and his colleagues in a position of great difficulty.

Incidentally, I should like to draw the attention of the Sub-Committee to the Report of a Committee which sat in London and was presided over by Sir John Kerr, and whose secretary was Mr. Pilcher. That Committee came to the unanimous conclusion that official ministers would not work. I merely ask the Sub-Committee to peruse that document. The members of that Committee had many of them had long Indian experience, and many were Indian officials.

As regards the respective merits of a Chief Minister or a coalition ministry: here again, we should remember that in all probability we shall not have an official bloc. If there is no official bloc —as is the desire of the Indian Section—then, whoever may be the Chief Minister or whoever may form the ministry must be able to carry a majority of the House with him. At the present moment, to take my Province of Bengal, we have an official bloc of 26 out of a House of 140, and, over and above that, a team of non-official British and Anglo-Indians, who, in 95 per cent. of cases, vote with the official bloc. Therefore, in a House of 140, the ministry starts with a solid bloc of 44; and if it can, from the different groups, obtain 26 more votes, it possesses a majority. With the dis-appearance of the official bloc and of the nominating element, there will remain only the European and Anglo-Indian group, who may not agree with the ministry. Assuming that a ministry be formed of my friends of to-day, I may safely assume in future that the European group will not agree with the ministry unless they are willing to see eye to eye with it. Again, our Province contains Hindus and Muslims fairly equally divided and, further, there are the backward classes. A true party system under these conditions will be difficult to run for some years to come. I am, however, one of those whose past experience justifies them in the belief that, as the work is carried on, the elements of the party system will emerge, more according to the realities of each Province than according to the theoretical politics with which we are more familiar. Our party will probably be the rural party, as I understand exists in the Punjab. Therefore, on the relevant point we are discussing on Question 2 (*a*), I think it is futile to lay down as a hard and fast proposition that there must be a Chief Minister who must be consulted in the election of the other ministers. It would be equally futile to lay down a hard and fast proposition that there should be no Chief Minister. A Governor who knows his business will try to act as much as possible as a Constitutional Governor. The instructions to the Governor—Instruction No. 6—say (even under present conditions), that, in considering a minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, the Governor shall have due regard to his position and to the wishes of the people of the Presidency as expressed therein. No doubt, Section 52 (3) makes it competent for a Governor to disregard the advice of his minister. Constitutionally, he has the liberty to do so. Never-

theless, a minister who knows his work and can be firm, and a Governor who knows his duty, need not come into conflict.

I had the privilege of holding every portfolio in the transferred departments—barring the Excise Department—and I can say that there was no occasion on which I was overruled by a Governor or on which a Governor did not accept my advice. I have worked with three Governors, including Lord Zetland, and only on one occasion did a certain Governor suggest that my advice should not be accepted. All that I had to do then was to point out this Instruction No. 6, and he at once gave in. Then, however, I was not only minister at a time when I was one of the leaders of a party in a ministry in Bengal with a solid following, but I also held office in more difficult days when, with the Swaraj group in power in great numbers, and without an official bloc, I was powerless. Without an official bloc under the command of the Governor, I could not get my policy passed. Even under those circumstances there was no occasion on which I was overruled. That being so, it is most important for the future—Dyarchy or no Dyarchy—and it will be of greater importance when there is no Dyarchy—and when every department will be transferred—not to lay down cast-iron rules, for they will never work. A good deal must be left to the judgment of the ministers and of the Governor. If, for example, you lay down a rule that the Governor must accept the advice of his minister, and at the same time you say—as is, no doubt, our Indian Nationalist demand—that the Governor must be a true Constitutional Governor, what will happen with regard to cases such as those mentioned by my friend Sir Chimanlal Setalvad? When there is a serious breakdown we all agree that the Governor should intervene. Cannot a true constitutional monarch intervene in your country when there is a breakdown of Law and Order? We should try to act up to that ideal, but it will best be attained if we work with more elasticity, and that the Governor should discuss questions at length with the ministers with whom he has to deal. If the ministers are in a majority, to overrule them will set the whole country ablaze. My Province has a population of 46 million and other provinces are also large. If the whole country is ablaze, the Governor should remember that he will come into serious conflict with the people. If he comes into conflict with the people owing to his doubtful orders and there is a breakdown of Law and Order, then he will have to rely on martial law and a Governor who knows his job will hesitate to employ this measure. Those of us who believe in evolution have great faith in the maintenance of law and order. Without it our education cannot progress. Our masses are in a very backward condition, and can never improve unless the structure of society be maintained. That being so, why should there be that distrust of the ministry? I realise that at times passions may be roused. I come from a Province where, unfortunately, in recent years there have been communal conflicts between Hindus and Muslims. When such conflicts occur it is the tendency of some Governors to think that the mere presence of a few British officers is sufficient. I say emphatically that, in such

cases, a few British officers are powerless, for this reason. We all know how a particular British officer—Mr. Blandy—was severely castigated in the Legislative Council because he took a certain action with regard to the Muslims and exasperated their feelings. Similarly, in the disturbances at Dacca and Mymensingh, Hindu feelings were inflamed and exasperated, and a British officer was severely criticised on the platform, by the press and in the Legislative Council. With complete transfer and one party in power, what can a British officer do? We are perhaps too much obsessed with the conditions which obtain at the present moment, but when passions are aroused the Governor ought to have certain reserve powers. These powers should, however, take note of Nationalist sentiment.

If the Governor on the slightest provocation can set at nought his Ministers, then the constitution will never run smoothly. On the other hand, law and order have to be maintained. There must be some means available which will give reasonable people time to reflect, and I am one of those who think that one way of achieving this end and giving reasonable people time to reflect is the setting up of Second Chambers. I do not say that Second Chambers should be set up in every Province; there is no need to set them up in Provinces which do not want them, and where there is no risk of communal or other conflicts; but I think they will be found useful in certain Provinces and that they will be wanted there. A Second Chamber, however, must not be an aristocratic Chamber, a blind copy of your House of Lords. If a Second Chamber has to be established, it should be more on the lines of those found in some modern constitutions.

My contention is that neither giving reserve powers to the Governor and allowing him to intervene at the slighest provocation, nor giving no powers to the Governor, will do. You must give the Governor time to think and you must give the people time to think. A Second Chamber is not being discussed here on its own merits; I merely indicate that that is one way of doing it, and that the Second Chamber which I for one would advocate would never be a Second Chamber of stakeholders.

It may be that such men as Mr. Chintamani and Sir Chimanlal Setalvad will not be elected to the Lower House. I myself have given more than 36 years to public life, and I may not be elected. I think if possible we should have some chance of contributing our wisdom to the State. I see Mr. Joshi laughs, but he may never be elected and it might be an advantage to have him in a Second Chamber.

Mr. Joshi: I have no such ambition.

Sir P. C. Mitter: I have the ambition to serve my country in the Legislature. So far as the composition of the Executive is concerned, we have seen that it will not do to have official Ministers.

With regard to the representation of minorities, there again it is a question whether, in forming a Ministry which will have the

support of a majority, a minority can be taken in or not. If the taking-in of a minority will make a Ministry a minority and not a majority Ministry it would not work, but whenever possible minorities should be included. I would give a good deal of elasticity to the Governor and to the Ministers. I should amend Section 52, Clause 3, and I should also amend the Instructions to the Governor, though I am not going into details about that, so that on the one hand elasticity should be left to the Governor and on the other hand the powers of the Ministers should be properly safeguarded.

Chairman: It seems to me the speech to which we have just listened indicates the difficulty of taking these points separately. I want to guard against having each of these subjects discussed twice over; we cannot afford the time for that. If you feel you cannot discuss the constitution and composition of the Executive without encroaching upon some of the other points which are mentioned in item 2, I should like to know whether it would not be better to discuss the whole of item 2 at the same time. I have listened to the last speech very carefully, and I could not rule the speaker out of order because indirectly, I think, nearly every point he raised had some reference to the constitution under which the Executive is going to work. If you want to narrow the discussion down strictly to (*a*) I am quite agreeable, but I am afraid you will go over the whole thing many many times before the discussion on these various points is concluded.

Sir Cowasji Jehangir: I should like to discuss (*a*) only and confine my attention strictly to it, so as to get it out of the way.

Chairman: Very well.

Sir Cowasji Jehangir: It concerns the constitution and composition of the Executive. As to the composition, I think many of the Delegates who have already spoken have clearly indicated that it should be constituted only of elected members of the Council, and that no power should be given either to a Chief Minister or to a Governor to appoint a Minister who is not an elected member of the Legislative Council. That rules out the suggestion made in the Report of the Simon Commission.

I do not desire to go into this question at any great length; so many speakers have dealt with the subject. Merely in passing, however, I should like to say that I agree the appointment of an official as a Minister would be an impracticable proposition in a constitution as we visualise it at present; it would bring in dyarchy all over again. We may argue that that official Minister would have to resign with the whole Ministry on account of there being joint responsibility. You will quite realise, Sir, the difficulties of such a situation. A paid Government official is appointed a Minister, and has charge of certain very important portfolios. He will naturally have charge of the most important. Within six months the Ministry may go out and he has to resign, but the result will be that the Governor will re-appoint him.

Sir Chimanlal Setalvad: That is what the Simon Commission Report says.

Sir Cowasji Jehangir: The result will be that in practice the vote of censure will not apply to him, he will go out with the others, but he will come in again with the next Ministry. That is one point. Moreover, how can he be responsible to the Legislature for his own Department when he has been appointed directly by the Governor? It will be a form of dyarchy which may turn out to be worse than the present form, and therefore we rule it out; and, if we rule it out, I do not think there is anything further to be said as to the composition of the Executive.

I am not going to touch on the question of the minorities in connection with the composition of the Executive, because I understand it is a question which will be discussed by another sub-Committee.

Chairman: But the rights of minorities can also be discussed here.

Sir Cowasji Jehangir: I am quite prepared to express an opinion on this matter.

Chairman: Not at this moment, however.

Sir Cowasji Jehangir: No, but with regard to the composition of the Executive it does come in.

Chairman: Yes.

Sir Cowasji Jehangir: But I am deliberately leaving it out, and for two reasons. It forms a very important reference to the sub-Committee which is dealing with it. We know that one important minority in India—we may call it a minority, although its population is seventy millions—has claimed that in every Government formed in India it shall be represented. I think the best place for considering that claim is in the Minorities sub-Committee, because there are delegates who are not members of this sub-Committee but who will play a very important part in the discussion of that matter; and therefore without their presence here I personally do not desire to go into this question. My feelings and my sympathies may be with the minorities to a certain extent, or I may consider that sometimes they go too far; but there will be nobody here to rebut those arguments, and therefore in the absence of some delegates who will play an important part in this discussion I do not think we can usefully debate this matter here. We might come to one conclusion and the Minorities Sub-Committee might come to another. Therefore I not only beg to be allowed to leave out all reference to this question, but I appeal to all the other delegates not to touch on it at this stage. I leave out this question when discussing the composition of the Executive.

Coming to the constitution of the Executive, so far as I can see there has not been the absolute unanimity I should have expected; one or two of our friends have expressed some doubt as to whether the principle of always appointing a Chief Minister will

work in all Provinces. When we talk of a Chief Minister, I think we must carry that suggestion to its logical conclusion. The appointment of a Chief Minister means that that Chief Minister will advise the Governor as to the appointment of all the other Ministers. If it means that the Governor makes his choice and, after having chosen the Ministers, chooses one as Chief Minister, and that Chief Minister merely becomes the Leader of the House, in my opinion that is placing a wrong construction on the term " Chief Minister "; you might as well call the person so selected the Leader of the House. It would mean that the Governor would appoint the Ministry and would appoint one man as Leader of the House. My conception of a Chief Minister is that the Chief Minister should not only be the leader of the House but should have a very substantial voice in the appointment of the Ministers.

I would go a step further and say that the advice of the Chief Minister should not be turned down by the Governor in the appointment of Ministers; I would make the Governor a constitutional Governor in the right sense of the term. I know there is a school of thought which believes that the Chief Minister should not even submit the names of the Ministers to the Governor for approval, but I think that is carrying things a little too far. I quite agree the names should be submitted to the Governor for approval, and that unless the Governor can see very strong reasons for objecting he should accept those names; but, if he does not accept a particular name, what will be the consequence? There can be only two results. The Chief Minister may leave out the name and substitute another for it, seeing the reasonableness of the Governor's objection, or the Chief Minister can refuse to form a Ministry, and the Governor must find another Chief Minister. Those are the two alternatives, and I think that should be the position. If the Governor cannot agree to a name submitted by his Chief Minister he must find another man as Chief Minister who will submit other names. That should be the constitutional position.

I realise that in some Provinces and at certain times it may be very difficult for the Governor to find a man amongst the elected members who will be in a position to submit names for a Ministry with any confidence that his Ministry would last for any length of time. I fully realise the difficulties, but I am not going to exaggerate them. There are difficulties, and none of us round this table who has had any experience of government in India desires to minimise those difficulties. We all hope—and I believe we have some foundation for the hope—that with the new constitution as we visualise it those difficulties will decrease.

But we must face the facts. Let us suppose a situation does arise when the Governor cannot find a suitable Chief Minister who is in a position to submit a list which the Governor feels with confidence will be a list acceptable to the House. What will be the position then? Well, Sir, in those circumstances I think the Governor should be under the control, direction and supervision of the Viceroy, and he should not form a Ministry or appoint Ministers

on his own, choosing one man as Chief Minister merely as Leader of the House, without the approval of the Viceroy. By that I imply that the Governor must make every effort to find a Chief Minister who can submit names, but failing that I can see at present no alternative to the Governor appointing a Coalition Ministry drawn from the various groups. In most cases the Chief Minister himself will do that, but I am thinking of a contingency which may conceivably arise. I think it is a remote contingency; I do not think it is a contingency which will arise in every Province on every occasion. I do not agree with Sir P. C. Mitter that this contingency will continually arise.

Sir P. C. Mitter: In my Province it will continually arise.

Sir Cowasji Jehangir: Under the new circumstances I do not think it will continually arise, but I am prepared to consider any safeguards which may be necessary in the contingency of the Governor not being able to find a Chief Minister.

My friend Sir Chimanlal Setalvad has referred to Clause 3 of Section 52 of the Act. It has been my unfortunate duty to have to protest against that Section on more than one occasion, because I felt that in my experience it had been misinterpreted. I never could bring myself to believe that that Section meant that the Governor could interfere with a Minister upon every possible occasion, as has been the case in some Provinces. Petty appointmennts have been refused by the Governor under that Section. Reading the Report of the Joint Committee, I have always held that that Section of the Act should be interpreted more or less in the spirit in which Section 50 of the Act is interpreted with regard to the Executive Council. In Section 50 the Governor is given the power to overrule his Executive Council if the "safety, tranquillity or interests" of the Province are likely to be affected. He has to submit his reasons for having done so in writing, and each Member of the Executive Council has to put down his reasons in writing for the decision he has come to.

I have always considered that Section should be interpreted like Section 50, but unfortunately it was not. The result was that dyarchy became a failure. I desire that we should not run any risks of that sort in the future, but I think that may be discussed under a separate heading, and therefore I do not desire to express my views on that very important point.

Mr. Joshi: May I say, Sir, without making a long speech, that I think hereafter we should have an Executive which will be wholly unitary in form. The Governor should be under an obligation to appoint a Chief Minister, and that Chief Minister should appoint his own Ministry. It is quite true there will be several communities to be represented, but what the Governor is expected to do in that connection will be done by the Chief Minister. No Chief Minister can run his Government if he neglects the principal groups in the Legislature. If a minority is represented or a particular interest such as landlords or labour, if they are sufficiently represented, that is, in the Legislature, no Chief Minister will be able to

form a Ministry commanding a majority unless he takes into consideration the claims of the different communities and the different interests.

Personally, I think there is nothing very special in the mind or the heart of the Governor which entitles him better than a Chief Minister to take into consideration the claims of the different communities. As a matter of fact, the Governor will be more or less an irresponsible individual so far as the formation of the Ministry is concerned. It is the Chief Minister who is responsible for conducting the Government, and therefore the Chief Minister will be more careful in forming his Ministry than the Governor would be. If you once give power to the Governor to appoint any Minister he likes, the Governor will have the power of making mischief. By choosing men from different groups he may try for some time to paralyse the Government. The Chief Minister, on the other hand, who will have the responsibility of conducting the Government, would not in those circumstances be responsible. I therefore think it would be wrong to give the power to the Governor to appoint the Ministers from different groups, because it would mean a temptation to the Governor to try to rule by selecting men from different groups. I do not think the Governor will succeed in such an attempt, because he will have to get a majority for his Ministers, and the Ministers will not be able to obtain a majority in such circumstances.

With regard to reserving seats in the Cabinet for the minorities, I do not think that is necessary. If a minority has a sufficient number of votes in the Council, no Chief Minister can neglect that minority. After all, there will be a Ministry of about 10 people, and if a minority has 10 per cent of the votes I do not think it will be possible for anyone to form a Ministry stable enough to continue for a month if a minority of that kind is neglected.

The Council is not going to be divided by communities, because it will not be considering—except perhaps once in six months—communal questions; it will be considering questions affecting the interests of landlords, merchants, labour and so on. The Council is bound to be divided on those lines, and therefore no community can be kept out. Moreover, a substantial minority has always in its hands all the Parliamentary methods of making it difficult for any Chief Minister to carry on his government. That can be done even by a small minority; even a small minority can make it difficult for a Chief Minister to carry on unless he satisfies its desires.

With regard to the question of official Ministers, it would be a great mistake to appoint a man as a Minister who is not an elected member of the Council. I cannot myself see how such a man could really play the part of a responsible Minister.

Finally, I should like to refer to one matter which has not yet been dealt with by anyone. When discussing the constitution and composition of the Executive, I feel that hereafter active members of the Civil Service should not be appointed as Governors. If a member of the Civil Service retires after five years at home he might

come back as a Governor, but at the time he is working in the Service under the Government he should not be appointed Governor.

Mr. Zafrullah Khan: I think we should be clearer as to what is meant with regard to the different points if the members of this sub-Committee would realise that in framing proposals for the constitution we should keep in mind the fact that there are some matters which must necessarily go into the Act, and with regard to which there would be no question of discretion, while there are other matters which might be dealt with by being included in the Instrument of Instructions to the Governor, and there are other matters on which, though we may arrive at unanimous conclusions and record those conclusions, yet they can only be allowed to grow by way of conventions. It is not every matter that we can insist on being included in the Act, and whenever we speak of a discretion being left to so and so and so and so, and yet say that our wishes are that such and such a thing should be done, we must understand that those matters must be allowed to come in by conventions.

Once we realise that distinction, it should be easier to arrive at unanimous conclusions and have them recorded than if each of us insists that our views with regard to any particular matter should form part of the rigid constitution on that point.

Several points have been discussed this morning with regard to the composition and constitution of the Provincial Executive which are matters where a certain amount of discretion would have to be left, say, to the Governor, and therefore those matters should be approached from that point of view. There are one or two matters with regard to which, however, I am sure all of us would wish to have no discretion left to the Governor.

With regard to these matters which concern the constitution and composition of the Ministry, having recorded our general conclusion under the first head that all subjects may now be transferred, we immediately arrive at the conclusion that the Cabinet shall consist of what are known as Ministers, and we have unanimously expressed the opinion, so far, that the Ministers shall be chosen from among the elected members of the Legislative Chamber of the Province.

There are one or two matters with regard to which I do wish to go into detail, although there is practical unanimity on those points. For instance, there is the recommendation contained in the Report of the Simon Commission that there may be—not that there necessarily shall be—one or more officials appointed as Ministers, or that possibly non-officials who are not elected members of the Chamber may be appointed as Ministers. Some aspects of this question have already been discussed, but in my opinion it is not enough for each of us one after the other, to stand up and say we do not like this provision.

I wish to draw attention of the Committee to one more aspect of the matter which further demonstrates the impracticability, and almost the mischief of having such a provision in the constitution, of leaving such a power to the Government. The recommendation

is that, in any Province, the Governor shall be at liberty, if he so chooses, to include in his cabinet one or more officials—presumably from his own Province—and that he may entrust any portfolios to them. No doubt this recommendation is coupled with the recommendation that every minister shall accept the doctrine of responsibility. We must look at this provision initially from the point of view of its practical effect upon the accepted doctrine that Dyarchy shall disappear. Under the present system we have certain subjects that are definitely transferred subjects, and none of them can possibly be entrusted to any minister, official or non-official, who may be in charge of reserved subjects—for instance, education, public health, or medicine. Under the present constitution transferred subjects are bound to be administered by ministers. Now the effect of this provision in the new constitution would be that an official, although called a minister, could be put in charge of any of the portfolios of a Provincial Government. There is nothing in the recommendation to prevent such a minister being put in charge, for instance, of education. The result would, in effect, be that education, which has been transferred for so many years in the Provinces, would become practically a reserved subject. The first objection to this recommendation is, therefore, that this shadow of the official minister would hover over the whole field of transferred subjects, and that any subject could, at the option of the Governor, be made a reserved subject in the sense of being committed to the care of the official minister. Although he might go out with one ministry, he could come in again with the next and be put in charge of the same portfolio or any other. Again, there is no limit to the number of official ministers who have been recommended. As a matter of fact, if the Governor so chooses and there is a recommendation, there is no obligation upon him to appoint any elected member as minister. He can appoint officials and non-officials who are not elected members of the Chamber, and form a cabinet with them. That would mean a mere shadow of responsibility in the cabinet.

Another objection, which is perhaps a corollary of the position already stated, is that the minister would really not be responsible at all, as he can go out with one ministry and come in with another, and therefore can, if he so chooses, have a ministry turned out and then come in with a fresh one. Supposing, in any particular Province, four out of five ministers are elected members of the Chamber and one is an official, occasion may arise when these four are equally divided and the vote of the official ministry makes a majority in favour of a certain policy. Their policy must then be accepted by the whole cabinet as its joint policy. Supppose that that policy does not commend itself to a majority in the Legislature and the ministry is censured, then the whole ministry must go out and the four elected members would not come back again; the minister responsible for the defeat of the ministry would, however, come in again and be put in charge of the portfolio he had held before, or of any other to which the Governor chose to appoint him. This instance, together with others, makes it perfectly clear that there

exists general apprehension that this recommendation would actually take away even that character of responsibility with regard to transferred subjects with which ministers are—even under the present defective system—invested, and would give the Government such wide powers of making that responsibility nugatory that this provision cannot in any way be acceptable to persons interested in the future constitution of the Provinces. Nor can it be described as an advance towards responsibility if this provision were to continue as a part of the Provincial constitution.

I will now consider the question of the constitution of the ministry from the point of view of the parties or groups from which the minister should ordinarily be drawn; and also the question of whether there should or should not be a chief minister. So far this matter can be dealt with by statute, and it is desirable that it should be so dealt with and that it should be made obligatory upon the Governor to draw his ministers from among the elected members of the Chamber. That is a matter with regard to which no discretion can be left to the Governor, because if it is so left the recommendation will operate which lays down that it is open to him to appoint anyone whom he chooses. In regard to the other question of the parties or groups from which he shall be drawn and whether there shall be a chief minister or not, a certain amount of discretion would—at least in the beginning—have to be left to the Governor, and the matter would not be capable of being dealt with rigidly under a section of the new statute.

With regard to the chief minister, I agree that the ideal position and the correct constitutional position would be that the Governor should select his chief minister, who would ordinarily be the leader of the largest group in the Legislative Chamber, and entrust to him the task of forming a ministry, subject to the approval of the Governor. No one would deny that that is the ideal constitutional position. There is only one point of doubt: is it necessary, at this stage, that the position should be expressed in the statute itself and that no discretion whatsoever should be left to the Governor? If that is done, then constitutional crisis may be repeated and new ministries formed far more rapidly than would otherwise occur. I wish to endorse this view, that every Governor should endeavour to make his choice of ministry in that fashion and should try as far as possible to form a ministry under the recommendation of the chief minister, and that he should select the chief minister himself, but I should leave the other matter to be laid down in the Instruments of Instructions rather than in the Act itself. When this ideal cannot be achieved, the Governor should have discretion so to form the ministry or cabinet that they command the majority of members in the Legislative Chamber and can carry on the government without a crisis.

With regard to the question of a minority being represented or unrepresented in the cabinet: no doubt there is, in a subsequent part of the Agenda, a reference to the rights of minorities. I submit, however, that this reference means that, once we have reached

conclusions on what shall be the rights and safeguards of minorities, we must in this Agenda take a further step and decide on the machinery that shall be set up to safeguard those rights. I therefore hold that the question of whether there shall or shall not be minority representation in the cabinet falls for discussion under the present head. No doubt it also forms part of the larger question of the rights and safeguards of minorities and other special interests, a question which would form part of the reference to a sub-Committee which might be set up to discuss Question No. 9. Without going into detail, however, I would again respectfully submit that this, again, is a matter which might be left to the Instruments of Instructions, and to conventions which might be established in each Province. The Governor should be called upon to endeavour so to form his ministry that it represents as far as possible all the men interested, communally or racially; and, in the Provinces, divided into two sub-Provinces, that it represents the sub-Provincial units. That is being done in other countries. In Canada, for instance, a convention has been established by which ministers are drawn from representatives of different Provinces no doubt belonging to the same party and there is due representation of Roman Catholics, French-speaking members of Quebec Province and of other communities. I understand that a similar convention has been established in Czechoslovakia. There is no difficulty in administering such a system. This is, however, a matter which, for a far greater reason, should be omitted from this statute, and dealt with by convention. I fail to understand the suggestion that where a Governor is unable to select a chief minister and leave the formation of the cabinet to him, then the selection could be left to the Governor-General. I cannot understand how the Governor-General could be more intimately in touch than the Governor with the feelings of the groups and parties in the Legislative Chamber. I cannot see that this provision would constitute a safeguard for anybody, and I am strongly of the opinion that the choice of ministers should be left to the Governor.

Chairman: I want to consult the wishes of the sub-Committee. I understand that it might be the desire of certain members to leave at 12-30.

Mr. Zafrullah Khan: We wish to adjourn at that hour on Fridays.

Chairman: I only wish to consult everybody's feelings. If there is such a desire, I think that we should all wish to respect it.

(The sub-Committee adjourned at 12-30 p.m.)

PROCEEDINGS OF THE THIRD MEETING OF SUB-COMMITTEE No. II (PROVINCIAL CONSTITUTION) HELD ON 8TH DECEMBER, 1930.

Chairman: Unfortunately the speaker on whom I was going to call first has not arrived. I will, therefore, ask Lord Zetland to address us, but before calling on him I should like to say this.

I detected from the speeches that we had the other day that we were not confining ourselves strictly to the one point, and it seems to me we had far better, in the remainder of this discussion on item 2, consider anything that arises under that item on the Agenda. That will enable you to speak on the constitution and composition of the Executive, on the powers of the Governor *vis-a-vis* his Executive and the Legislature, on the administration of Law and Order and on the rights of minorities in the Provinces. The general discussion had better cover any of those points.

Lord Zetland: On Friday Mr. Chintamani referred to a remark of mine made at the first session of this sub-Committee, and as I listened to him it seemed to me that he had perhaps derived an impression from what I said which was not wholly correct. He quoted me as saying that since the question of autonomy for the Provinces had been generally conceded, there was not much use discussing the question further in a second reading debate. That was not quite what I said; what I actually said was this, that the question of autonomy for the Provinces *with certain reservations*—and, if I may say so, those were the important qualifying words—had been conceded both by the Simon Commission in their Report and by the Government of India in their Despatch. I suggested that therefore, since that was so, it might save the time of the sub-Committee if instead of having a second reading debate upon the main question we came straight to the heads of subjects which had been drawn up by our Chairman.

I had glanced through the heads of subjects, and I had seen they covered practically all the reservations which I had in mind. What I was afraid of was that if we had a second reading debate first and then came to the heads of subjects we should merely be discussing the same questions twice over; and it seemed to me, therefore, that it would save the time of the sub-Committee if we came straight down to the heads of subjects. I think, if I may say so, the experience of our discussions both on Thursday and Friday suggested there was some justification for the view which I then took.

We are now discussing, as the Chairman has pointed out, item 2 of the Heads of Subjects, and particularly sub-section (*a*) of item 2, namely the constitution and composition of the Executive, by which is meant the Executives in the Provinces. Some members of the sub-Committee have suggested that the Chief Minister should not be entitled to go outside the elected members of the Legislative Council in his search for Ministers. Sir, I hope that this sub-Committee will not decide to restrict the discretion either of the Chief Minister or of the Governor in that way. To begin with, if we were to so decide we should be departing very widely from the practice prevailing in this country. I speak subject to correction by our Chairman, but I think I am right in saying that there is a member of His Majesty's present Government over here who has no seat in Parliament at all, namely the Solicitor-General. The

Chairman reminds me that he himself became Home Secretary in the Government of 1924 without a seat in Parliament.

Mr. Joshi: It is for six months only.

Lord Zetland: The Chairman reminds me that the Solicitor General has not been appointed very long, but I should like to say that six months is not a statutory limit. However, we will not argue about that.

Quite apart from that, in this country the Prime Minister has a much wider field to go to than is provided by the members of the House of Commons. He invariably selects from the House of Lords persons with administrative experience, and perhaps with other experience of public life, of a type which he cannot always count upon finding in the House of Commons. That, of course, raises the question of Second Chambers in the Provinces. Beyond saying that personally I am in favour of establishment of Second Chambers in the Provinces, even if, to borrow a phrase used by my friend Sir P. C. Mitter, they are not " blind copies " of the House of Lords, I do not wish at this moment to complicate my argument by going into that particular question at this stage in detail.

My argument is a plea for leaving to the Chief Minister and to the Governor a discretion—I do not put it higher than that—to go on occasion beyond the elected members of the Legislative Council if either of them considers it desirable so to do when forming a Ministry.

Some will agree with me on that point and some will not. Personally, I would, at any rate for a time, allow the discretion to extend to the extent of appointing even an official as a Minister if it was thought desirable.

This raises the very important question of the treatment of the portfolio of Law and Order. I should certainly not be acting fairly towards this sub-Committee if I were not to say quite plainly that there is a substantial body of opinion in this country, more particularly perhaps in the party to which I myself belong, which does view with a good deal of anxiety the proposal immediately to transfer to the control of a Minister responsible to the elected Legislature the portfolio of Law and Order.

But, having said that, let me say equally frankly that personally I believe the advantages, whatever they might be, of reserving a single portfolio when all the other portfolios are transferred would be outweighed by the disadvantages. I think that if dyarchy is to go in every other subject, dyarchy must go in all subjects, including Law and Order. However, as I have pointed out, that is not to say I could agree to Law and Order necessarily being administered straight away by a Minister selected from the elected members of the Legislative Council. After all, this really does bring us up against some very hard realities, which we cannot ignore. I imagine, for example, that if in the case of Bengal the Chief Minister was not entitled to go outside the elected members of the

Legislative Council to find a colleague to administer Law and Order, he would practically be obliged to appoint either a Hindu or a Muhammadan.

Mr. Jadhav: There are some Europeans elected.

Lord Zetland: I am afraid the non-official Europeans are far too busy to be able to take on a Government portfolio. I am assuming for the purpose of my argument—and I think I am right in so assuming—that almost certainly a Hindu gentleman or a Muhammadan gentleman would have to be appointed in those circumstances to administer that portfolio. Now, do not suppose for one moment I am suggesting that either a Hindu administrator or a Muhammadan administrator would be less capable than an English administrator. It is not that at all; the advantage which the English administrator possesses in this particular case is derived from his neutrality as regards the two great communities in India; and his neutrality has a profound influence upon both the conduct of the police and upon the general public.

That is not a purely official view. We know perfectly well that that view is held by large bodies of Indian non-official opinion in India, and it will be within the recollection of the members of this sub-Committee that the Indian Central Committee, which, after all, was a body almost wholly Indian in its composition (I think there was one English member), did definitely recommend in its Majority Report that in the case of Bengal the portfolio of Law and Order should not be transferred.

Mr. Paul: That was only in the case of Bengal.

Lord Zetland: I am speaking now about Bengal I say in the case of Bengal they definitely recommended that the portfolio of Law and Order should not be transferred.

I should like to give the sub-Committee an illustration from my own personal experience of the kind of situation which may very easily arise. In the Autumn of 1917 there were very grave disturbances at Shahabad across the borders of Bengal. In the Autumn of the following year, 1918, Muhammadan opinion throughout India was very gravely stirred by events which took place outside India in connection with the Great War—the fall of the Turkish Empire and so on—and an immense demonstration was planned to be held in Calcutta. I would remind the sub-Committee that in the case of the Shahabad riots in the Autumn of 1917 the Muhammadan population had been very severely dealt with by the Hindus. This great Muhammadan demonstration which was planned to take place in Calcutta in the Autumn of 1918 happened to come just about the time of the celebration of two of the great festivals of the Muhammadans and Hindus respectively, the Bakr-id and the Durga Puja, always potential sources of trouble. It was quite obvious that if the vast demonstration was to be held at such a time there was a grave danger of serious disorder and possibly of bloodshed. Among the Muhammadan millhands of Calcutta—a large and for the most part uneducated class—word

had gone round that the demonstration was to provide the opportunity for the assertion of the rights of Islam and for the satisfaction of Muhammadan grievances. They were exhorted to remember the events of Shahabad the year before.

It was quite clear, therefore, that it was essential in the interests of peace that the demonstration should not take place, and the demonstration was accordingly prohibited. My point is this. Suppose in those circumstances the portfolio of Law and Order in Bengal had been in the hands of a Muhammadan administrator. I think the pressure which would have been brought to bear on him by his co-religionists outside, and more particularly inside the Legislative Council, would have been so great that he could not have resisted it. He would have been obliged to allow the demonstration to take place; and, as I say, I think in all probability with disastrous results. On the other hand, suppose the portfolio had been in the hands of a Hindu administrator, and suppose he had decided that the demonstration must be prohibited, as I think undoubtedly on the merits of the case he would have decided. In that event it would have been believed, and widely believed, that he was actuated by communal bias. In either case there would have been a grave danger that the impartiality of the administration would become suspect with the public, with the most unfortunate results not only on the morale of the police force but also upon the attitude of the public towards the administration.

I would beg this sub-Committee, therefore, not to limit too rigidly for the present the discretion either of the Chief Minister or of the Governor in the matter of selecting persons to occupy Ministerial posts. May I say just this one word more? It seems to me that both parties to this controversy—that is to say the party that desires that the Chief Minister should have complete control of the appointment of his Ministers independently of the Government and the other party which desires that the Governor should have completely discretion in the appointment of the Ministers independently of the Chief Minister—that both these parties have in their minds an entirely false picture of what the relations between the Chief Minister and the Governor will be. Surely the relations between the Minister and the Governor will not be relations of antagonism and distrust. They will be relations of mutual confidence. Neither will desire to press unduly his own view against the strongly held view on the part of the other. They will wish to come to an agreed solution of their problems. They will wish to discuss matters in a friendly and accommodating spirit. And indeed, if those are not to be the relations between the Chief Minister and his Governor I really fail to see how the successful working of the system which it is proposed to set up can possibly be expected.

Chairman: Before I call on the next speaker I should like to say for the benefit of those who arrived late that speakers are at liberty to refer to any question coming under item 2 of the Agenda upon which we are working.

Diwan Bahadur Ramachandra Rao: May I ask whether there will be a separate debate on the items the constitution and composition of the executive and the powers of the Governor *vis-a-vis* (1) His executive and (2) the legislature?

Chairman: No, we are taking them all together. I found when I tried to narrow the discussion to the first point that speakers would insist upon including more than the one point.

Sir Ahmad Said Khan: Mr. Chairman, on the first point I can only say that I agree with those speakers who are in favour of abolishing dyarchy from the Provinces. I may say in reference to what Lord Zetland has just said on the subject of the transfer of law and order that although I agree with him to some extent it is not for the reasons stated by His Lordship. He said that if the portfolio of law and order is in charge of an Indian such a Minister would not be able to administer the department as impartially as a European could. I do not agree with that nor do I think there would be any lack of efficiency. Here I may say that in one of the major Provinces which stands next only to Bengal as far as population is concerned the portfolio of law and order has remained in charge of an Indian for the last ten years. Fortunately the leader of the opposition of my council is also a member of this sub-Committee and I think he will be able to bear me out when I say that not once has any criticism been made in the House or outside it about the impartiality of the Member in charge of law and order. Therefore, I beg to assure members of the sub-Committee who have any misgivings in their mind of that kind that that is not the fact and that those of us who have had experience in India of Indian members being in charge of law and order know that the arrangement has succeeded. Of course, there may be other grounds for misgivings on the part of the minority, but to meet those misgivings I am sure safeguards can be embodied in the constitution instead of perpetuating dyarchy in the Provinces. I am glad that you, Mr. Chairman, have allowed us to deal with all the points coming under heading No. 2, because they are so inter-dependent on each other that it would be very difficult to deal with them separately. One may agree with one point but not with the other point, or may agree with one point if the other point was also carried. Therefore it is much better to deal with them collectively, and I will deal with them now in a collective manner. In regard to the composition of the legislative council I think there should be no official bloc, but I think it would be desirable if we allowed official members to come to the House and explain the position whenever necessary. My experience has shown me that sometimes it happens that questions of such detail are asked in the House that it is difficult for the member in charge of the department to be able to reply without the help of the officials of the Department. It would be of great help, therefore, if officials were allowed to explain the matter in the House, but they should have no right of voting. As to the composition of the Ministry, in my opinion the appointment of the Chief Minister should be

left to convention. I for one would not like to have that put in the constitution and made rigid. I know that in practice there must always be a Chief Minister. The Governor will have to consult the most influential man and that man automatically will become Chief Minister. But if we were to make that rigid by stating in the Constitution that there shall be a Chief Minister it is quite possible there might be difficulty in forming a Ministry in India. The reason is this, it is perfectly easy to do that if there is a party system as there is in England. You have two parties or three parties. You take the leader of the majority party and make him Chief Minister. But in India, political parties have not crystallised yet. In the legislative councils as far as my experience goes there is the group system. There is a group of ten or twenty here and a group of ten or twenty-five there, representing various schools of thought. There is no party system. If we insisted that there should be a chief Minister we might, therefore, have some difficulty I for one would much prefer to leave the matter open as is done in many other constitutions. For instance, in the English constitution I do not think there is any mention of a Prime Minister. In many constitutions there is no mention of a Prime Minister or a Chief Minister. I think it would be much better to leave it to convention instead of putting it definitely into the Constitution. As to the question of officials becoming members of a Ministry, I am entirely opposed to any official Minister. It is simply impracticable. It will create weakness inside the Government. It will not be a source of strength in any way. Let me take a very obvious objection. Suppose there is an official Minister. Within the Cabinet he would inaugurate a certain policy. His Indian colleagues would agree to his policy. But in the House, a Vote of Censure is moved on that particular policy. What will be the result? The Indians who had the misfortune of agreeing with him will go out if the Vote of Censure is carried but the official will remain. The reply to that may be that he also should go out. If he is also to go out, then where should he go to? He cannot go back as Commissioner after having been a Member of the Government and he could not work as a subordinate to those who were recently his own subordinates. The only course left for him would be to retire. What would be the effect of that? Perhaps some of our very best officials would have to retire before their normal time, we should have to pay them compensation and we should lose the benefit of their experience in administration. I do not say that it would happen but one could conceive that some people might regard that as being a possible way of getting rid of all experienced officials in India. Therefore, I think it would create many difficulties all of which I cannot mention now. As to the question of appointing non-official non-elected Members of the Ministry I am doubtful. I am not keen about it but I have doubts because I remember an occasion when it was very difficult to get any Minister from among the elected Members. The Governor offered the post to an outsider who could not accept it. Then we had to take a man from the Council. I think it would be

just as well to leave the hands of the Governor free in this matter, but I should wish to make it quite definite that his selection should be confined in such a case to non-elected, non-official men. I am strongly against official Ministers. If non-elected Members are taken into the Cabinet such an action may be very much resented by members of the Council and I admit that this is another difficulty which has to be taken into account. There is one other point upon which I should like to lay stress and that is about the safeguarding of minorities, by giving some seats in the Cabinet to minorities. I think there would be difficulty in putting such a provision into the constitution, but I think it could easily be put into the Instrument of Instructions to the Governors. It may be against the notion of democratic government but there are special circumstances in India and we must try to create a feeling of security in the minds of minorities. Therefore, I think it would be desirable—indeed, I think essential—that in the Instrument of Instructions we should make it quite clear that the Governor would do his very best to include members of a minority in the Cabinet. This question of minorities, if I may be allowed with your permission to say so, need not be regarded as a question of Mussalman minorities. It is not so. If we seek to protect the rights of minorities we do not seek in that way to favour Mussalmans. In that respect I was very much impressed by the speech of Raja Narendra Nath from the Punjab who is a very zealous member of the Hindu Mahasabha. The question of minorities is simply a question of doing justice to the weaker party, whether Hindu or Muhammadan. For this reason I think that it would be desirable that the Instrument of Instructions should contain definite instruction to the Governor that minorities should be represented in the Cabinet.

Lord Zetland: All minorities?

Sir Ahmad Said Khan: Important minorities.

Dr. Ambedkar: What is an important minority?

Sir Ahmad Said Khan: I will leave that to the discretion of the Governor. As far as constitutions in the British Commonwealth are concerned I think that this is the practice in New Zealand and Canada. In New Zealand they always have one or two representtives of Maoris in the Cabinet. I think therefore that it will be nothing new if we have it in the Indian constitution also. I wish to say one word in regard to Second Chambers. Personally I am in favour of a Second Chamber for my province. My idea is that we should give a Second Chamber to such provinces as have been recommended by the Simon Commission or which have been recommended by the Local Government or by the Government of India. I do not wish to say that every Province should have a Second Chamber but where the people of the province are in favour of a Second Chamber I do not say that it should not be given to them. The reasons for giving a Second Chamber in such cases are obvious and I do not wish to take up your time by giving all the reasons. I may perhaps give one reason—that as far as the special powers of

the Governor are concerned the less they are used by the Governor the better and in time we hope they shall become a dead letter being out of use. A Second Chamber in certain circumstances may obviate the use of such powers by the Governor.

Mr. Chintamani: Mr. Chairman, the various subjects covered by the present discussion are of so far reaching importance, and with reference to all of them I hold such strong convictions based upon experience and observation, that I trust I shall have the indulgence of yourself and my colleagues if I take up a few minutes of your time. I shall endeavour to make my observations as brief and businesslike as possible. First of all, I should like to deal with some of the observations made by the noble Marquess who has spoken on the basis of his experience as a British Governor in an Indian province—a British Governor not an Indian Minister, an important distinction which I wish you to remember. He had not to work, as a Minister, the constitution in the conditions that existed.

The noble Marquess has cited the authority of the Indian Central Committee, and my noble friend Nawab Sir Ahmad Said Khan has also fallen back upon the same authority in support of his plea for the establishment of Second Chambers. We know very well indeed how the Simon Commission was constituted, what reception it had in India, and who were the classes of persons who agreed to co-operate with that body either as members of Central and Provincial Committees, or as witnesses before it. Let us argue the question on the merits instead of falling back upon the support of a body of which I do not speak because it is difficult to do so within the limits of moderation and courtesy.

I wish to enlarge on the conditions in the United Provinces, where, since 1921, the subject of law and order has been in charge of an Indian member of Government. The subject has also been in charge of an Indian member in the Central Provinces, and has been and still is in charge of such a member in Madras.

With regard to the constitution and composition of the executive, let us bear in mind that nearly all of us have come here with a demand for Dominion Status for India, and nothing less. That demand can have no reality or meaning if we are not prepared for complete responsible Government in the Provinces. It will not do to pay lip homage to the doctrine of responsible government in the Provinces and then proceed by various means to evade that responsibility by suggesting fancy devices with regard to the composition of the executive or the reservation of powers in the hands of the Governor which will make him anything but a constitutional Governor. If we meant what we said when we asked for Dominion Status and responsible government, let us be courageously prepared for all the implications and consequences of that demand. I for one am prepared for all of them, with the certainty that that will make for the good of India, and will not produce any deleterious consequences. It follows from this that the executive in every Province

must be a responsible executive. We have decided under the first head to do away with the distinction between reserved and transferred subjects. It follows therefrom that the executive must be unitary, and also that it must be responsible to the legislature. If it is at the mercy of the Governor, or so composed as to include diverse elements not having a common policy and programme, or if it is an executive which includes elements with divided allegiance, then it cannot be a unitary and responsible executive. In order to have such an executive, we must have a ministry with collective responsibility in every matter. To bring this about there must be a chief minister selected by the Governor from among those who command the largest support in the legislative council, and he should have freedom to recommend to the Governor who should be his colleagues, the Governor to accept his recommendation except in such rare cases as occur also in this very country.

The question was raised with regard to the safeguarding of minorities, and it was suggested that one of the leaders of a minority should be included in the executive. The safeguard for ensuring this lies in the composition of the legislature itself. Every legislative council included not only members of one community which may be the majority community, but members of all communities, in varying numbers no doubt, but at all times and in all circumstances members of all communities. That being so, I should like to see the chief minister, unless he is entirely devoid of commonsense or fitness for his position, who can flout the opinion or the will of any substantial minority in the council, and constitute a ministry against which the minority will swear hostility from the first days of its existence. I appeal to you, Mr. Chairman, with your experience of public life in this country, whether you could imagine a Prime Minister who could give effect to his despotic wishes without bearing in mind the state of opinion in general, and not merely that of the party on whose support he relies to carry on his government. Can you ever expect a chief minister of ordinary commonsense who will ignore substantial minorities in his legislative council when composing his ministry? Or, if you get such a one, will his official life be worth two days purchase? The safeguard for all minorities lies in this essential circumstance, that there never can be a chief minister who can disregard those communities and interests without imminent peril to his own official existence. If we are not prepared to rely upon the reality of this safeguard we must admit that we are not prepared for the implications and consequences of responsible government, and are demanding something without understanding what it really means. None of my colleagues here will plead guilty to the charge that he is unaware of this implication and the consequences.

I need not add that it necessarily follows that the ministry must not include a permanent official or one not in the legislative council, and if some one is chosen who is not in the council he must get himself elected thereto within a prescribed time. In this

country if a minister does not secure a seat in one or other House of Parliament within a reasonable period he must resign his office. The permanent officials in office will, If I may be pardoned for saying so, be nothing but a constitutional abomination. They will not be able to work with their colleagues or to get on with the legislative council.

The noble Marquess has adverted very rightly to the valuable experience possessed by Englishmen and the beneficial results of having an English ministry. By all means, I have not the slightest race prejudice, let the Englishmen come forward, officials or non-officials, who sympathise with and will work for the political progress of India. I could name many, both officials—Sir Henry Cotton was one example, and there are many others—and non-officials in this connection. We Indians will be the first to take advantage of the services of such Englishmen in the government of our country. But not merely because they are Englishmen.

The next point concerns the powers of the Governor *vis-a-vis* his executive and the legislature. On this point I speak with a special degree of earnestness. I am convinced that few things have contributed more largely to the failure of the Montagu-Chelmsford reforms than the indefinite and extensive powers vested in Governors of Provinces under the present Government of India Act. I am aware that the Governors themselves have often complained publicly and privately that they have not got the requisite powers adequate to the discharge of their enormous responsibility. I am afraid I cannot sympathise very much with that complaint. On reading the relevant section of the Act, it will be found that the Governor as the head of the transferred half of the Government is in a perfectly autocratic position, accountable only to his own conscience and to God Almighty. He cannot be taken to task by any official superior, because the Act makes him the official authority. If we mention the name of the Governor we must mention him as a sacred personality, not to be criticised. He occupies a position of perfect despotism in respect of administration of transferred subjects. His permanent officials have direct access to him as a right, and their point of view is more often identical with his than dissimilar. The majority of Governors in India belong to the permanent service and not to the Parliamentarians. The Governor should be, in fact, a constitutional Governor. He should be no less, but he ought not to be any more.

I come now to the next question: What, if any, provisions are necessary to safeguard the administration of law and order, the rights of minorities, or any other interests? It is my conviction that the Governor need not have any reserve power to safeguard law and order. I know of no subject in connection with Indian politics upon which a greater amount of fiction has been written or taught, or more utterly misleading statements made in this country than with regard to the attitude of the Indian public man to law and order. The people of England are told tales as if we Indian public men were not in the least concerned for the maintenance of

law and order in our country. Where offences against the State, real or alleged, are concerned, the Indian public men do not see eye to eye with the permanent officials, with regard to the number of prosecutions to be instituted, or the severity of the sentence to be inflicted. On that point I need not say much, for I can appeal to you, Mr. Chairman, as to whether the detached critic or the permanent official is more likely to be in the right when he thinks of offences against the State such as alleged seditious speeches or writings in the Press. You, Sir, and others in your position have had to spend a good deal of time in protecting the liberty of the subject against encroachments by the executive even in a constitutionally governed country like yours. How much more so must the public man of India be called upon to take steps in a country autocratically governed and governed by an alien executive.

With regard to ordinary crime, because of the combination of judicial and executive functions, injustice has often resulted against which we protest, and then we are held before you people of England as being opponents of law and order. I protest against the implications of this accusation and deny it *in toto*.

As regards the rights of minorities, here I have not the slightest objection to what has been proposed, because I want a new Government of India to start in an atmosphere not of contention or distrust, but of agreement, friendliness, confidence, and hope. Therefore I have not the slightest objection to the suggested clause giving instructions to the Governors asking them to see that minorities are treated with justice and fairness. If this is a derogation of the Governor's position as a constitutional Governor, I am prepared to sacrifice theory to this extent—but only to this extent—to practical ends. There is no other interest with regard to which the Governor need have emergency powers.

Mr. C. E. Wood: There are only two subjects to which I propose to refer, one being the transfer of law and order, and the other the question of Second Chambers. I think the real point of view from which we should consider this question of the transfer of law and order is how to retain the willing co-operation of the police. That seems to me to be the view-point from which we should consider this matter, because the police are and have been, especially recently, a very highly tried body. They are very badly paid, and they have proved staunch in all emergencies. There is no doubt from what one can gather from the police themselves that they do very much fear what may happen to them in future if this transfer is made. It was expressed by Sir A. P. Patro, when he said that care must be taken to remove them from party politics. That is really what it comes to. They do not fear—and the non-official Europeans certainly do not fear—transfer to an Indian as against a European. I myself have seen the department of law and order controlled by an Indian for many years, and there has never been the slightest fault to find with that control in any way. But—and I think Lord Zetland was speaking from that aspect—there may be some Provinces where it may be necessary to make

exceptions, and I think possibly that Bengal should be considered on its own merits.

This question of the portfolio of the police being held by someone who is not an elected member of the Legislature is an important one. If at the discretion of the Governor the portfolio may be held by someone who is not a member of the Legislature I think it will invariably cause friction. At the same time, I think it may be found necessary in such a province as Bengal to place the portfolio in what may be called neutral hands, but I should not leave it entirely to the Governor. Lord Zetland has remarked that unless the Governor and the Chief Minister work closely together the Government cannot be carried on—or words to that effect—and it seems to me if that is accepted it should also be accepted that the Chief Minister should give his consent to the portfolio being administered by someone who is not an elected member of the House.

A very important point, especially in a Province like Bengal, is to keep administrative matters away from the politicians, for I am perfectly certain that no Government will be able to carry on if there is interference by politicians. The police will not stand it. If law and order cannot be administered properly the Government cannot be administered properly, and future Governments will be only riding for trouble unless they are prepared to make some sort of provision in that respect. It seems to me that the placing of large statutory powers in the hands of the Inspector-General of Police in the matter of discipline, appointments and promotion would be a very great safeguard so far as the administration is concerned. I believe that in England such powers exist in the case of the County Constabulary. In each administrative county there is a force commanded by a Chief Constable, who appoints, promotes and dismisses the other members of the force and has the general government of them, subject to the police authority, which is a non-political standing joint committee.

Sir A. P. Patro has suggested that the Public Services Commission will be a safeguard in this respect; but, with all due respect to him, I do not think the Public Services Commission can possibly attend to matters of discipline, administrative matters and enquiries where the conduct of the police is in question. They are more an advisory body to assist in the matter of promotion from the lower to the higher grades, and in selection for appointments. That is all I have to say about the police.

I now wish to refer to Second Chambers. I am very glad to see that the question of Second Chambers has now been brought up; I was a little afraid at one time it would be dismissed without consideration by the members here. It is not correct to say, as one member has said here, that the Provinces have turned down the suggestion, because in the United Provinces, Bihar and Orissa, Bengal, Assam and Madras the Provincial Committees have all spoken in favour of Second Chambers. We have to remember that we are going to make a very large step forward, if only by

the removal of the official bloc, and one benefit of a Second Chamber will be the protection of the Executive from hasty action by the House since it will give the House time to reconsider its decisions.

Dr. Ambedkar, whilst stating that he is quite prepared to agree to the transfer of all subjects and to placing the minorities in the hands of an Executive responsible to the House, seems to contradict himself by saying he is very much afraid that a majority party will treat the minorities unfairly. I suppose Dr. Ambedkar knows his own business best, but I do not see how he can place those two views side by side and make them agree. All authorities that I have read recommend Second Chambers as an antidote when there is a fear of unfair or unsympathetic treatment of minorities by majorities. I am quite sure Dr. Ambedkar will consider whether his salvation does not lie in a Second Chamber rather than in a coalition Ministry, which personally I think is an impossible suggestion. He has great responsibility for the interests of his community, and I am quite sure he will look after them satisfactorily.

One important point with regard to Second Chambers which I should like to stress is that if they are to be of assistance to the minorities they must be properly constituted. There is a fear of landlord domination.

Mr. Joshi: Hear, hear.

Mr. Wood: There must be a careful selection of representatives of all communities, and I would suggest electoral colleges for the minorities. I think a Second Chamber can be made a Chamber on which the minorities can rely as a safeguard for their interests.

Mr. Zafrullah Khan: And the commercial people?

Mr. Wood: I said the minorities, and the depressed classes. A Second Chamber, moreover, may, as one speaker has already suggested, possibly be a substitute for placing too much reserve power in the hands of the Governor.

Some Provinces say that there is not the material for a Second Chamber in their Province, but I think, taking the country as a whole, India can surely find the material for Second Chambers. It can hardly be said of any country which is ripe for self-government that it has not the material from which to form Second Chambers which are capable of protecting the minority interest.

We have to remember, when we are talking about Second Chambers not being usual in Provinces, that India is not one nation. I should have dared to say that myself here, but I am quoting Dr. Ambedkar, who did say it, and I am in perfect agreement with it. India, with its population of 230 millions, cannot be treated in the same way as a country of 40 millions; there are Provinces in India with a population of 40 millions, and what applies in other countries cannot be taken as a precedent.

There is one thing I should like to suggest with regard to a Second Chamber which may be pleasing to minorities, namely that there should be constitutional statutory power to abolish such a Chamber if a large majority—say a three-quarters majority—of each community in the Lower House was in favour of such a step. That is to say, if three-quarters of every group or community in the Lower House were in favour of abolishing the Upper House they could bring it about. The majority parties are usually in favour of the abolition of an Upper House, and this would mean that if the minorities made up their minds that the Upper House was of no value to them and was not protecting their interests they could combine with the majority parties and get rid of it. It seems to me that the Upper House, feeling that its life was in the hands of the minorities, would consider very seriously any problems which specially affected the minorities. I would ask for very careful consideration of this subject, because I do think in that form, together with separate electorates, the minorities will get the safeguards they seek much more effectively than by thinking of coalition Executives.

Dr. Ambedkar: May I make a suggestion? It seems to me this question of Second Chambers is so important that it cannot be discussed properly and adequately by being tacked on to the series of heads we are now discussing. In my opinion a special day ought to be allotted to this subject. I see very little connection between the subject of Second Chambers and that of the protection of minorities, or any of the other matters enumerated in items 1 and 2. It seems to me this is a very important question. I find nothing in this list of heads dealing with the composition of the Legislature; if you were to add a head " Composition of the Legislature " we should have a proper opportunity of discussing the whole subject.

Chairman: I cannot see how you can separate this whole subject and split it up.

Dr. Ambedkar: The question of Second Chambers can certainly be separated from that of minorities.

Chairman: Not entirely. Whether there is to be a Second Chamber or not affects almost every other subject that comes up—the powers of the Governor *vis-a-vis* the Executive and the Legislature, the powers of the Legislature and so on. I think you had better let us go on, and if at the end we find the discussion has not been adequate, we will try to arrange for a further discussion on this subject by itself.

Sir A. P. Patro: I regret my friend Mr. Chintamani has been overcome by the fashionable disease of crying down those who co-operated with the Simon Commission. My friend seems for the moment to have forgotten that there are as strong, disinterested and genuine patriots as himself who co-operated with the Statutory Commission to make sure that India and the Provinces obtained full responsible self-government. It is ridiculous to pretend that

patriotism is confined to anyone particular individual or set of individuals. Strong language can never build a sound constitution. We must have control over ourselves and remember that though we may have been divided temporarily there are others who are as genuinely and sincerely patriotic as ourselves. I regret very much, therefore, that Mr. Chintamani should have referred as he did to the five or six of his colleagues here who co-operated with the Simon Commission. We had the honour and privilege of co-operating with that Commission and of doing our best to place before it what we considered the best and the just evidence in support of the cause of India and the cause of the Provinces.

With regard to the composition and constitution of the Executive, the main point has already been dealt with by my friend the Nawab of Chhitari, with whose practical observations I am in general agreement. The question has only to be considered for the answer to be almost unanimous, namely, that there should not be an official on the Executive. There is universal agreement that when a Ministry is formed no outside official shall be included in it, though, as the noble Marquess has pointed out, discretion may sometimes be vested in the Governor, for there may be a Province or there may be an occasion where it may not be possible to find a Minister, as the Nawab of Chhitari pointed out occurred in his own case. Discretion may perhaps be allowed in such a case, but there should not be general discretion to allow an official to come into a Ministry; the disadvantages are too many, and it would quickly ruin the principle for which we now stand, the principle of joint responsibility. The answer to that question therefore, is that the Executive should be constituted from the elected members of the Legislature, that the Executive should not have an official amongst its members, and that the principle of the joint responsibility of the Executive should be established.

With regard to the Chief Minister, I agree it cannot be laid down definitely that there shall be a Chief Minister in every Province. Conditions differ and circumstances vary, but as a general rule there should be a Chief Minister. Wherever it is not practicable to have a Chief Minister that rule need not be adhered to, but there must be a Chief Minister wherever possible.

With regard to the powers of the Governor *vis-a-vis* his Executive and the Legislature, that has an inseparable connection with the question of the formation of Second Chambers. Most of the powers now vested in the Governor under the Government of India Act remain a dead latter and are not exercised at all; most of the overriding powers provided in the Government of India Act are not used at all in many Provinces. The question is whether the Statute should allow such overriding powers to the Governor. If we have a Second Chamber, as was recommended by many Provincial Committees, then the drastic powers which are now vested in the Governor would not be at all necessary. It is in that way that the question of a Second Chamber comes in when we are discussing the powers of the Governor. The Governor should have

emergency powers so as to be able to preserve the peace and tranquillity for which he is ultimately responsible; it is necessary that safeguards should be adopted for the ultimate security and tranquillity of the Province, but otherwise the Governor ought to be guided by the advice of his Ministers.

The provisions relating to the control of the Governor over the Ministers will altogether disappear, because the distinction between the Ministers and the Executive Councillors will disappear. The powers which the Governor has now with regard to the Executive Council will further be modified by establishing that the Governor shall be guided ordinarily by the advice of his Ministers. It is only in cases of special emergency, where there is a question of communal troubles or other factors, that he may have to exercise overriding powers, but in that case he will ultimately have to appeal to the country; he cannot be an autocratic Governor any longer. There need therefore be no fear of having some safeguards in that matter.

The other question is as to the powers of the Governor over his Executive and the Legislature. The powers over the Legislature consist of administrative interference with the Executive and Legislative interference. At present the sanction of the Governor has to be obtained before certain legislative measures can be introduced in the Council, and he has the power ultimately of vetoing legislation or referring the matter to the Governor-General under the reservation powers. All these powers of the Governor in matters of legislation are to be found in every State in the Dominions, and therefore they are not extraordinary powers at all, but ordinary powers vested in the Governors in these States.

With regard to the administration of Law and Order, I differ entirely from the observations made by Lord Zetland. Law and Order must be administered by Indian Ministers without any regard to communal disturbances. The particular instance Lord Zetland referred to may be an exception, but even in such a case if a Muhammdan or a Hindu happens to be in charge of Law and Order he will conduct himself strictly in accordance with the popular will and do what is necessary in the interests of the peace and order of the country. Therefore peace and order is not a subject that is the exclusive field of any particular community or race. There should be no suspicion whatever either in Britain or anywhere else that odrer would be disturbed or law not properly administered if there were an Indian Minister in charge of that very important department. The rights of minorities have been referred to. It is very necessary that the rights of all important minorities should be safeguarded but I do not think that safeguards should be put into the statutes. Safeguards should be established either, as has been pointed out, by instructions to the Governors or by establishing some convention in the matter. No legislative enactment that I have seen contains any definite safeguards as has been suggested in certain quarters. They should be established by instructions to the Governors when

they are appointed or by convention. The rights of minorities must receive recognition and minorities must feel that their interests are safe under the new Government. For that purpose safeguards will have to be provided. I submit that in reference to these matters coming under (1) and (2) of number two on the Agenda answers have already been given very fully. What we want is real responsibility introduced into the Provinces. I come from a Province in which the portfolio of law and order has been held for the last ten years by three Indian gentlemen one after the other. All those three gentlemen have been Muhammadans, but no one has ever accused any of those gentlemen of ever having yielded to any communal pressure. I thank the noble Marquess, Lord Zetland, for kindly pointing out to us what he thinks might be a difficulty, but I can assure His Lordship that in any Province in India Ministers, either Hindu or Muhammadan may be found who are above all communal feelings.

If I remember aright, Sir, we had some talk at our meeting on Friday on the matter of having Members to represent minorities in the Cabinet. I yield to no one in my desire for the protection of the rights and privileges and interests of minorities but I am afraid it will not be practical to insist that they should be represented in the formation of a Cabinet. There are practical difficulties in the way. If a Chief Minister is required to include in his Cabinet some persons who will be there to represent the rights of minorities it means that he will be required to include in his Cabinet some persons who hold views quite different from his own. I do not think that such a Cabinet could last for a very long time. After all a Cabinet is not formed to represent groups or minorities or communities, or whatever you may call them. It is formed to carry on the work of administration and in order to do that it must be able to work smoothly. If a Cabinet has to be formed by including heterogeneous elements it will hardly be workable at all. What I submit, therefore, is that you should include minorities by all means whenever it is possible, but I do say for heaven's sake do not make it obligatory. It is always desirable to have in the Cabinet representation of minorities whenever it is possible and I think the Chief Minister should always attempt to do so when he thinks that with such a composition of his Cabinet he would be able to carry on administration smoothly. But he should be under no compulsion to form a heterogeneous Ministry at the risk of its being broken up at any time.

Diwan Bahadur Ramachandra Rao: In rising to make a few observations on Item 2 on the Agenda I think I may say at the outset that the number of questions involved in this item involve so many points of view that I am afraid that some of them are bound to be omitted in the discussion. I feel that the question of Second Chambers ought to be separately dealt with. There are many questions relating to the Second Chambers which in a cursory discussion like this can have only a casual reference. It seems to me that there cannot be ade-

quate treatment of the subject. For example, we have to consider what should be the nature of the Second Chamber, should it be purely a revising body, or should it have co-ordinating powers, should it have power in financial matters, should the budget be discussed in both Houses? Then, assuming there is a conflict between the two Houses, should there be powers similar to those given in the Parliament Act 1911. Again we have to consider whether Ministers should be responsible to both chambers or only to the lower House, the popular House. These and other questions have to be very carefully considered apart from the question of the composition of the Second Chamber. Therefore, I think that in addition to whatever remarks may be made in the course of this discussion sometime later there should be given an opportunity of discussing all these subjects, because the question involves very complicated issues and the question of the extent of the responsibilities of Ministers will also have to be considered. Therefore, I respectfully suggest that this quesion should be taken up again later. For the present I am disposed to think that the Second Chambers are likely to complicate the constitutional machinery rather than help it. On this question I may perhaps be allowed to invite the attention of my collegues here to what was said in reference to this proposal by the Simon Commission. Several of the local Governments have expressed their opinions on this matter. Five of the eight Provinces have taken the view that a single chamber legislature would be quite enough. Among the other three there are some differences of opinion. All the opinions are summarized in the Government of India Despatch at pages 20-21. One of the arguments in favour of Second Chambers advanced by two of my colleagues here is that a second chamber would afford protection for minorities. That is Mr. Wood's view. I think it has also been suggested that the Governors' powers of over-riding the legislature would be curtailed by the establishment of a Second Chamber. I am not disposed to agree with that. I think the protection of minorities would be no greater if a Second Chamber is instituted than it is now. I think that the protection of minorities ought to be dealt with by embodying in the Statute certain fundamental rights and also possibly conferring some power on the Governor to protect their interests. If neither of those methods is sufficient to protect minority interests then I do not know how the constitution of a Second Chamber—whose composition we have not yet discussed is going to do anything to protect minorities. As regards the Governors' powers perhaps I might be allowed to invite the attention of Members to the over-riding powers of the Governors discussed—in paragraph 50 of the Simon Report. The Report says: "We are not attempting to settle the draft clause but we should be disposed to describe these two as matters in which in the Governors opinion we must give such directions:—(1) in order to preserve the safety and tranquillity of the Province." I do not see how a Second Chamber is going to help in the matter so long as the Governor has this power. The Governor's exercise of this power would certainly not be affected by the constitution of

the Second Chamber. The Simon Report goes on " (2) In order to prevent serious prejudice to one or more sections of the community as compared with other sections." The Simon Report then proceeds to deal with other purposes for which they think the Governor should possess over-riding powers. They say: " We are not referring to financial safeguards which we shall deal with separately nor to the powers which the Governor must have in reserve in respect of certain classes of legislation.

There are three other purposes for which we think the Governor should possess over-riding powers, and it is convenient to mention them at once, though their importance is mainly technical and connected with other aspects of the constitution: —

(3) To secure the due fulfilment of any liability of Government in respect of items of expenditure not subject to the vote of the legislature.

(4) To secure the carrying out of any order received by the provincial Government from the Government of India or the Secretary of State. (The degree of control of these authorities is discussed hereafter.)

(5) To carry out any duties which may be statutorily imposed on the Governor personally, such as duties in connection with some service questions and responsibility for backward tracts."

Apart from whether these powers should be possessed by the Governor or not I do not think any of them will be affected by the constitution of a Second Chamber. I do not wish to deal further with the subject except to say that the majority of the provincial governments who have some experience in this matter have recommended that there should be no Second Chamber. Three Provinces think there should be a Second Chamber and the Government of India have stated that in those Provinces where it is recommended there should be no Second Chambers, there should be no Second Chambers, and in those Provinces where it is recommended there should be a Second Chamber, there should be a Second Chamber. Therefore I think the solution of the question is that there should be some authority given to the new legislatures to adopt what I may call a constitutional resolution for the constitution of a Second Chamber. There should be during the first ten years such a power given to the single chamber, and the question might be solved in that way namely by arming the single legislature with power to adopt a consitutional resolution for the constitution of a Second Chamber. To go beyond that now, and to decide that Second Chambers are necessary, would seem to be rather complicating our future machinery of government in the Provinces. As to the question of whether there should be a Chief Minister, you will permit me to say a few words. The point has always to be remembered that a Chief Minister is necessary because otherwise the Governor would be dragged into controversy. If the selection of Ministers is left to the Governor he will have to make enquiries as

regards communal groups, and I think one thing which is very necessary is to keep the Governor out of the arena of party politics. That is most necessary. I can say that in more than one Province the Governor has been accused of having taken sides or of having interested himself in one group as against another in selecting Ministers who would not work together. All those difficulties arise once you have no Chief Minister. For that one reason I venture to think it is necessary to have a Chief Minister. Undoubtedly as has been pointed out, the Chief Minister would discuss constitutional questions with the Governor and take his advice and assistance but the final word as regards the composition of the Ministry should be with the Chief Minister who would submit names for acceptance to the Governor. Otherwise I am certain the Ministry would not be a harmonious whole striving to work the machinery of Government in the proper way. It has been suggested that there may be communal tension because the Ministers may all belong to one of the two communities in India. That cannot be helped. I think that the sooner we devise machinery that will make both parties have confidence in each other the better it will be. To invite the Governor to make appointments of Ministers who would hold themselves individually responsible to him would be the very negation of responsibility. I should like to say a few words on that point with regard to the over-riding powers of the Governor in financial and administrative matters. It has been suggested that the Governor should have the power of restoring grants in regard to matters in which he has over-riding powers and that he should have also, the power of certification of Bills. I am strongly of opinion that if these powers are conceded to the Governor it will be the negation of the responsibility and the legislative council will be helpless as regards these matters. I think there should be a Chief Minister and that everything should be done to give real responsibility to the legislative council. On the question of official members of Cabinets I think that it has been very clearly shown in the case of local governments that the large majority of them are opposed to such a measure. They are of opinion that that also will infringe on the principle of responsibility. You would introduce into the Cabinet a person who is not responsible to any popular constituency. He would be a man with no constituency behind him who would look to the Governor for support. He would have no party in the House and he would certainly be isolated from the rest of the Ministers forming the Government. For that reason he would not be able to work in harmony with popularly elected Members. I think it would tend to undermine the whole scheme of responsibility if somebody who had not received the support of a popular constituency but who was only interested in administrative work was made a member of the Government. Lord Zetland said that in the peculiar circumstances of Bengal he thought that an official Minister would be a person in whom perhaps both sections of the community would have great confidence. Here again I must repeat my argument—an official Member would not be a responsible Member. You must

face the problem and I think you must come to the conclusion that such a scheme would be fatal. It has been suggested that in present circumstances it might happen that there would be more confidence if such a person held the portfolio of law and order. I doubt it. Experience in Madras, where an Indian was always in charge of law and order, and experience in other Provinces, has shown that there have been no deleterious results. Therefore I submit that whatever may be the present circumstances of Bengal on which of course Lord Zetland is so great an authority, it is far better to entrust this portfolio of law and order to an ordinary member of the Government rather than to an official member. There is only one other point upon which I wish to deal, that is, the representation of minorities. This question has been discussed at great length in some of the provincial governments. They have generally come to the conclusion that the inclusion of representatives of minority communities is desirable. No Chief Minister forming his Ministry would be so foolish to neglect important minorities and not to take men from those minorities into his Cabinet. But it would be unnecessary to provide for that in the Statute. It should be done either in the Instrument of Instructions or it should be left to convention to grow up. It seems to me that these are very sound views, and that nothing further can be done to provide representation of the minorities in the executive government of the Provinces except in the way that has been suggested—that is, not by Statute but by Convention.

Sardar Sampuran Singh: I should like to make a few observations on two points, namely, the chief minister and the official minister. In my opinion, there will be always a chief minister in the cabinet. The question is really, who is to select the appointed ministers, whether the chief minister is going to be selected first and then to make his ministry, or the ministers are to be first selected by some other authority and the chief minister appointed afterwards. In my opinion it may be practicable in some of the Provinces that the chief minister should be appointed in the beginning and make his own ministry, but I am aware that there are Provinces in India where it is necessary that the ministers should be from all the communities, and here, it is necessary that they should be appointed by the Governor. I agree that there is some difficulty, but we cannot lose sight of the fact that there are places in India where such differences exist, and in order to minimise them and keep them subdued it is absolutely necessary that for some time at least the power should rest in an altogether neutral person. The responsibility will be in the cabinet when once appointed, and, moreover, no Governor can afford if he wants to run his Province, to appoint any ministers who have not the support of the majority in the Council. From the very fact that the cabinet has to rule in the Province and has to run the Province it is absolutely necessary that they should have the support of the Council, and that means that they will have the support of the whole of the Province and be representative of the people in the real sense of the word. I do not agree that if the ministers are

appointed by the Governor and they select their own chief minister afterwards, the principle of responsibility in that cabinet is in any way impaired.

The second point on which I want to say a few words is with regard to the official minister. The noble Marquess has given the reason that in some cases it may be necessary for the Governors to appoint ministers from amongst the officials so that they may be able to administer the department of law and order in a way in which the people have confidence. I beg to submit that that is just the reason—because the department of law and justice should not be left in the hands of the officials—why there should not be any official minister in the cabinet. We cannot shut our eyes to the fact that just at present faith in the administration of justice, as it is going on in India, is shaken. Some years ago I was reading Lord Macaulay's Essay on Lord Clive, where he says, in effect, that British Government in India is based on faith in British justice and not upon the British Army in India. I beg to submit, Sir, that that faith is being shaken, and to re-establish that faith and to establish British rule in the heart of the people of India, it is absolutely necessary to bring back the faith in British justice. One reason perhaps for the shaking of confidence is that there is disturbance in the country, and because there is disturbance the British officers have to depend upon very lowly paid police officers, and it is a well-known fact that these subordinate police officers are very corrupt. In order to subdue that agitation and to carry out the policy of the present Government, the Government has to depend upon those police officers, who do not hesitate to fabricate evidence, or to bring in false witness in the courts. It is because justice is not being properly administered in the country that it is absolutely necessary to have strong Indian ministers—a strong administration to handle law and order in India. In my view it is just for that reason that it is absolutely necessary there should not be an official minister in the Cabinet.

Maharaja of Darbhanga: We are in favour of the transfer of law and order. With regard to the possibility of trouble on such transference, we have had Indians who have been in charge of law and order in different Provinces, and if they can manage to keep it, and if there has been no trouble during their time as Members of Council, there is no reason for us to think that they cannot maintain law and order under the new conditions.

I should like to add a few words about the Second Chamber. The fears of some of our friends are that Second Chambers are not desirable, because they are likely to be entirely composed of, or dominated by, the landlords. That is not the type of Chamber we contemplate. In the Second Chamber we should have the representatives of other interests, representatives of minorities. The Second Chamber, I venture to think will be a necessity for safeguarding the interests endangered by hasty legislation on the part of the lower house. The Provinces that already want it, and for which the Government of India recommend it, should have a Second

Chamber right away, and there should be a clause in the constitution that other Provinces may have Second Chambers if and when they think it desirable. The composition of the Second Chambers may be left to be decided at a later stage, and we need not go into details with regard to that subject at the moment.

(The sub-Committee adjourned at 12-55 p.m. and resumed at 3 p.m. with Lord Zetland in the Chair.)

Sir Shah Nawaz Bhutto: This morning I found that most of the arguments employed in reply to the speech of Lord Zetland went to show the capacity of Indian members to deal with the subject of Law and Order, but I should like to point out that, if I correctly understood Lord Zetland, he never disputed the ability and the capacity of Indian members to take charge of the subject of Law and Order. The point is that such members are nominated by the Government and are not responsible to a constituency or to the Legislature or subject to outside influence, as is the case with Ministers.

I was very much amused yesterday by the arguments of my friend from Bombay, Sir Chimanlal, when he was making out a case for the difference in treatment between Ministers and Members of the Executive Council. My own experience has been that the position of an Executive Member is quite different from that of a Minister. As soon as a member is appointed he has a safe life of five years, and he is not responsible to a constituency or to the Legislature. Whether a European or an Indian he becomes an autocrat, and therefore he is not open to argument or susceptible to the influence of public opinion at all. He has a regular policy and experts to guide him, and in 99 cases out of a 100 he follows that particular policy and is guided by his experts, so that there is very seldom occasion for a Governor to disagree with him. We have, of course, had Ministers of whom much the same could be said, and we should be proud of them; but there have been others of whom the less said the better. They allowed themselves to be influenced by their constituencies, by their communal feelings and by their parties. If the Governor had no power to restrain them, I think, had they been free to follow their own will, we should not be able to ask for Dominion Status or full responsible self-government if our fitness to obtain it were to be judged by the capacity those men showed for the positions they filled.

Unfortunately we have very short memories, and I find that by the time we pass Aden we have forgotten the real circumstances which exist in India and how we have left them. I am not less anxious than any of my colleagues to secure full responsible government or Dominion Status for India, but the facts have to be faced. We are all accustomed to say that the facts must be faced, but we often find it convenient to ignore them.

Leaving Madras aside—for my colleagues from Madras can be proud of the way they have worked the constitution and of the circumstances that prevail in that province—I should like to take

the case of the Bombay Presidency, which is one of the most advanced Presidencies. What are the circumstances there? Even now we have communal trouble; a month or two ago we had communal trouble in Sind, and last year we had trouble in Gujerat. It was not only a question there of asking for Europeans as magistrates, judges and officials, but they even protested against the public prosecutor belonging to either of the communities, and said that the prosecutor who conducted the cases should not belong to either community. It is very regrettable that that should be so, but things are in that bad condition. Each community lacks confidence in the other. I am not going to accuse any particular community, but those are the facts.

In these circumstances it is little use saying, " Oh, we shall be able to manage "; we may create disasters. I should like to go very fast; I should like to go 120 miles an hour rather than 60 if it were possible to do so; but some solution must be found for this problem; for it is a very delicate one. Most of the Provincial Committees when faced with this problem did not know what to do. We were very anxious to do something one way or the other so that we might have full responsible government in our provinces but at the same time we were faced with difficulties. We shall have to put our heads together and try to arrive at some solution.

With regard to having a Chief Minister, some of the delegates have expressed the fear that if the Governor is left free to make his own choice or selection he may do mischief, but I dispute that. Surely the Chief Minister, if he is left himself to make a selection or form a Cabinet, will do the greater mischief. The Governor has no axe of his own to grind. Unfortunately we cannot compare the circumstances which at present prevail in India with the situation in Parliament here. You have not communal parties here; your parties are on quite a different basis. Most of our able and influential leaders in India are Liberals, but they are left without any following because they are fair and straight; it is only communal leaders at present, whether they belong to the Mahasabha or Congressor are Muhammadans or whatever it may be, who have an influence and a following.

It is in the interest of the Chief Minister himself that the selection should be left to the discretion of the Governor. If the circumstances are as favourable as are those which prevail in Madras, as a Parliamentary man the Governor will himself select a Chief Minister and on his advice form a Cabinet, but he should not be bound down to do that if the circumstances are not favourable. He may not have a Chief Minister at all, or he may form the Cabinet himself and appoint a Chief Minister, or he may appoint a Chief Minister and then select the rest of the members of the Cabinet. Even if he does select a Chief Minister that Chief Minister will be able to tell his party that the Governor has had the last voice in the matter; otherwise even if he is the leader of the majority party he will be thrown out the next day and his own party will desert him if he does not work

on communal lines. It is said that the Chief Minister can do what it is proposed the Governor should do, but that is not the case as things are at present. Twenty years hence we may have parties on a different basis, but as things are to-day everything is done on a communal basis and in every walk of life we show this communal narrow-mindedness. If the Chief Minister is anxious to have a representative Cabinet selected from the different groups, I am positive, from my experience of twelve years in the Legislature and ten years in the Bombay Council, he will be left next day by his followers. That has happened in our Council. Where the Government has been weak and has given way to the Ministers they have ignored the Depressed Classes, the Muslims, and everybody else. In view of that experience I think it would be in the interest of the Minister who considers himself Chief Minister that he should not have the last voice in forming the Cabinet, but that the Governor should have the last voice.

As for a Second Chamber, I will not say what our community has decided, since I had the privilege of being chairman of my Provincial Committee. We considered this question very minutely and carefully, and came to the conclusion it was in the interests of the Presidency and of all the communities and of all classes, whether agriculturists, labour or capitalists, that we should have a Second Chamber in our Province, and I stick to my views in that respect.

With regard to the protection of minority interests, I do not think we could be satisfied merely by a convention, which might take about thirty years, or by something in the Instrument of Instructions; I think it ought to find a place in the Statute itself. I am very keen on the overriding powers recommended by the Statutory Commission for the Governor being accorded.

Sir P. C. Mitter: Previous speakers have referred to special difficulties with regard to Law and Order in Bengal. Speaking with a full sense of responsibility, I wish to say there is no case for treating Bengal on a different footing on this matter or for accentuating the difficulties of Bengal with regard to Law and Order. However, as certain observations were made by the noble Marquess who is now presiding, and in whose judgment I have the utmost confidence, I desire to say something with regard to what fell from him. He referred to an incident which occurred in 1917. As a member of the Legislative Council as it was then I remember that incident, but I would point out that there is a great difference between 1917 and even 1921, and certainly, I hope, 1931. Having worked as a Minister and as a Member, I can say with confidence that whatever communal differences there may have been outside, there has always been an endeavour inside between Hindus and their Muhammadan colleagues to settle those communal differences inside the Cabinet. I am sure every Governor will bear me out in that. We have recently had communal trouble in Bengal; there can be no question about that; but so far as communal troubles of which we have had notice in advance are concerned, I can bear testimony to the fact that the Muslim, whether a Minister or a

Member, and the Hindu, whether a Minister or a Member, has always tried with his colleague to settle those differences. Happily in many instances where there was notice in advance those differences were settled at the instance not only of the Muslim or Hindu Member or Minister but of their respective followings in the Legislative Council.

I quite admit, however, that these communal troubles may come all of a sudden. If these communal troubles do come all of a sudden, and if the particular Minister in charge of Law and Order has to deal firmly with them it should not be apprehended that if that Minister happens to be a Hindu or a Muslim his action is likely to be criticised by the other communities. As I remarked on Friday last, we cannot run away from the realities of to-day, and each one of us, including myself, is probably rather too much obsessed with the realities of to-day. If that Ministry has a majority, however, I am sure it will be a majority composed both of Hindus and Muhammadans, and the Minister, be he a Hindu or be he a Muhammadan, will have to look not only to the Muhammadan section of his followers, but to the Hindu section. A Muhammadan will have to look to the Hindu section of his followers as well as to the Muhammadan section, and a Hindu will have to look to the Muhammadan section as well as to the Hindu section.

Again, it has been my experience—and I am sure it has been the experience of many others—that with added responsibility there comes added strength. Look at what is going on in the different Legislative Councils with regard to the transferred and reserved departments. With regard to transferred departments, the added responsibility is shown by the fact that on perhaps only one occasion was there a departure from that responsibility, and that was rapidly made good; generally speaking the Legislative Councils, even those which were against working the constitution, have acted with responsibility.

Giving the matter my best consideration, I say that if in any Province Law and Order ought to be transferred it is in Bengal. Let me not be misunderstood. If there is any Province where Law and Order has created difficulties it is in my Province. Quite apart from communal questions, where is another Province where you have a terrorist movement such as you have in Bengal? I make bold to say that if Law and Order were in the hands of Indians, perhaps that movement could have been checked—I do not say wiped out—more effectively. Let me refer, Sir, to your own administration. How was it that when you left not even the terrorists criticised you? It was because you tried to take into account public opinion, and at the same time you were firm. But, whenever public opinion has been ignored, those who are against the maintenance of law and order raise their heads, and the mere enforcement of law and order will never be able to suppress them.

I know, Sir, that you can always see the other point of view when the other point of view is presented to you, and, as I value

your testimony very much, I should like to make an appeal to you. I know you have not the obstinacy of weakness; you have the strength of the strong. You will approach the question from this point of view, and, approaching it from this point of view, let us examine the position.

Let me assume for a moment that Law and Order are in the hands of an official Minister. That official Minister can at the most have but the most grudging support of his colleagues. What will be the type of his colleagues? There will be no official bloc. The type of colleagues from whom the official Minister can expect support will be a type, I venture to submit, which will not have the confidence of considerable sections of their countrymen represented in the Legislative Council.

What can the official Minister do? At present he can do a lot of things; at any rate he can get his will enforced. But when there is no longer an official bloc, and when the Governor, in spite of whatever reserve powers you may give him by the constitution, will be either powerless or, if he has the strength of the weak, will set the whole country ablaze, what will happen? The only alternative will be for the Governor to call in martial aid. If the Governor does not listen to the advice of his Ministers, whether the Ministry is formed from a majority party or is a coalition Ministry, the whole countryside will be ablaze; do not forget that. On the other hand, if instead of an official Minister you have a Minister who has the support of his majority, I am sure that in an emergency of that character that Minister will call to his aid not only his own following but, since we are all agreed we are going to have joint responsibility, the following of all the Ministers. Those Ministers, with joint responsibility, will place before the elected representatives of the people what the position is, and show the necessity of maintaining law and order. If there be some Hindu who is communal, some one from the Hindu Sabha for instance, or some Muhammadan who approaches the question from a communal point of view, I am sure there will be other Hindus who will impress on this Hindu, and other Muhammadans who will impress on that Muhammadan, the supreme necessity, in the interests of the people themselves, of the maintenance of law and order.

I do not for a moment ignore the fact that there may be occasions of communal conflict, but the best solution is not merely to take action after the event but in the general formation of public opinion, which is far more important than the police force, however efficient. But, Sir, I speak with a full sense of responsibility as one who has borne his share of the burden of the government of the country, and I ask how is it that the communal question, which I knew in Bengal 15 years ago, is again raising its head? I do not question the efficiency of the police officers. I have the highest respect for some of them, particularly the Head of the Police in Calcutta. Nor do I question the motives or the efficiency of the Indian Civil Service. I have had the privilege of working with mutual confidence with members of that service. The Civil

Services has always tried to be efficient, but it is necessary also to be able to appreciate the mentality of the people. There have been people who have been able to appreciate that mentality, and at the same time to be efficient administrators. Bengal is a Province where Hindus and Muslims are not in conflict and where education is well advanced, but the unemployment problem does give rise to conflict. In that Province, above all others, you do require the help of the non-official. You require efficiency combined with understanding. Therefore I venture to say as my considered opinion that official ministers, whether they may answer in other Provinces or not, will certainly not do in Bengal. As regards a minister who may be a member of the community from which my friend Mr. Wood comes, it would depend on him whether or not he made good. I am one of those who believe that the future policy should be for Hindus and Muslims, British and Indians, to work together with true understanding. If the British elected member remains a member of the Council I would not object if he were in charge of Law and Order, but even when the British minister be in charge of Law and Order it must never be forgotten that he and his colleagues are jointly responsible to the House, and he must act with a proper sense of responsibility. I say, therefore, that there is no case for treating Law and Order in Bengal on a different footing from that in any other Province, but there is every reason for treating Law and Order in Bengal from a more progressive standpoint.

There are only one or two other points on which I may address the sub-Committee. We have discussed the question of the chief minister at some length. Much of the discussion is really based on a misapprehension. We have been told that statutory provision is not wanted for a chief minister. If there be no statutory provision it stands to reason that the minister who can command a majority, and in commanding that majority, can command the votes of other sections, stands in a stronger position in commanding the majority. Some people are apt to think that if you have 50 to 60 per cent. of the members in one community you at once get the support of those members. We had 39 Muslims in our legislative council. and with the official bloc the total was 44, and they had more than an ample majority in a House of 140. But how is it in Bengal? From the mere fact that a number of members of the legislative council belong to one community, be that community Muslim or Hindu, you cannot expect that every individual in that community would give his support. I speak from ten years experience. A party in a wider sense of the term—a party with a programme to go before the country—will not be possible so long as we have communal electorates. I am merely stating my opinion. If there be no statutory provision for the chief minister, the particular gentleman who should command the confidence of the majority is hardly likely to do so unless he has the support of the Hindu, the Muslim, the backward classes, the Indian Christians, and others. And the more varied the composition of his party, the greater will be his strength.

My remarks about the chief minister disposed to a certain extent of what I had to say about minorities. For minorities I think it is not possible to have statutory provision, but it is possible to draw the attention of the Governor in the Instructions to the existence of minorities, and, as has been pointed out by Lord Zetland the constitution cannot run unless there is the utmost confidence between the Governor and his ministers, particularly the most important, the chief minister. Without a statutory provision, the Governor, even if the chief minister system be adopted, will have it open to him to point out to the chief minister, that he is neglecting such and such an interest which is very important, and that if the members representing that interest can be brought in and enabled to work together it will be an asset and a source of strength. (*Mr. Henderson at this point took the Chair.*)

Sir Ghulam Hussain Hidayatullah: I still adhere to my opinion that no rigid provision can be made in a statute for the appointment of a chief minister. My friend who has just sat down stated that in Bengal they cannot form a party which can command the confidence of very large sections of the House. Another friend from my part of the country, Sir Cowasji Jehangir, was anxious about the statute.

Sir Cowasji Jehangir: I did not say statute.

Sir Ghulam Hussain Hidayatullah: At least he was laying stress on the point that there ought to be some provision. Now what are the parties in this part of the presidency? There are the Muhammadans, the non-Brahmin group, or I might call the other territorial group, the majority group. How many Liberals are there? Only 5 or 6. We tried to form in Bombay, when there was a scramble over the formation of a ministry, certain parties, but there were no parties. Surely it is impossible that a rigid provision in the statute for the appointment of chief minister will work in all the presidencies. I may refer, on the question of minorities, to the fact that certain other countries have had statutory representation of minorities. In Canada the principle of such representation has been recognised as valid and regularly applied since the first ministry of thirteen members formed in 1867; 5 of those members came from Montreal, 4 from Quebec, 1 represented the English speaking population, and the others came from other parts. In the case of an important minority like the Muhammadans, a provision ought to be made for at least one Muhammadan by statute to be in the cabinet. I do not like the members of my community to be left to the tender mercies of the majority. By convention it also might be made imperative that a member of a minority like the Muhammadan or some others might be represented in the cabinet, but the danger of a convention is when the majority may not follow the convention. Therefore there ought to be authority given to the governor to enforce the convention.

Coming to law and order, everyone of us is interested in its preservation. Whoever be in charge of law and order, whether

Hindu, Muhammadan, or European is always subject to a certain amount of criticism, and I might say on my past experience that Europeans are subjected to more criticism that the Indian members in charge of law and order. It is admitted on all hands that the subordinate officers from the rank and file of the police are very well disciplined, very loyal, and have carried out their duties under very difficult circumstances, even against their own co-religionists. If the rank and file can conscientiously carry out this duty I fail to see how a responsible minister would not also discharge the duty conscientiously. The Indians in charge of law and order, though they were in a safe and secure position, not subject to the vote of the council, have nevertheless carried out their duties conscientiously, without any consideration of caste or creed. Why, therefore, should not a minister responsible to the legislature carry out his duties with equal conscientiousness, and rise above racial considerations? Moreover, in the cabinet we have joint responsibility. There will be other ministers who will have to accept this policy before he launches it, and so there is a control over him within the cabinet.

My experience of the Montagu Chelmsford Reforms has been that they have failed because of the division of the subjects into reserved and transferred. The elected members of the Council have always resented the fact that the reserved subjects are not subject to their vote. They have always attempted to level their criticism against the reserved subjects, because if they throw out any legislation in the reserved departments it can be certified. Now we are transferring most of the subjects, including Irrigation and Land Revenue, to make only Law and Order reserved will be very difficult and will be an untenable position to take up. Even when we had Councils in which there was an official bloc and nominated members a good deal of criticism was levelled against the department of Law and Order. If we do not transfer Law and Order I am afraid the position of the Ministers who have accepted joint responsibility, with only one official or non-official or whoever it may be who is not responsible to the Legislature, will be very difficult, and they will find it very difficult to carry on. The Ministers who are responsible to the Legislature may feel that they cannot leave their colleague who is in charge of a reserved department in the lurch and ask all their followers to go and vote against him, but if they follow his advice in regard to a particular matter which is not approved by the Legislature I am afraid they will lose their own adherents. Their position will be a very awkward one.

In fact, the separation into reserved and transferred subjects has prevented the Ministers from forming parties, because the members of the Legislature have always said to them " If you will join us in attacking the reserved departments we will blindly follow your lead, but, when the question of the reserved departments comes up, you Ministers who belong to the transferred departments for the sake of policy throw your votes with the reserved side of Government." That has been a great obstacle in

the way of forming Ministries. In my opinion, therefore, Law and Order should be transferred.

Coming to another question, the powers of the Governor *vis-à-vis* his Executive and the Legislature, and so on, I will only say a word about this. We have said there will be a Ministry and that there will be joint responsibility; now comes the question of whether the Governor should be bound by the joint advice of the Ministers in all matters or not, or whether he should be given certain overriding powers. To my shame I must admit that there are communal differences among us. My friend Dr. Ambedkar complained of the tyranny of the majority over his class, and went to the extent of suggesting not only that the Governor should have overriding powers but that the Central Government in addition should have those powers. When I bear that in mind, and when I find there are no stable parties yet in my country which can ensure a majority of the elected members—and we have not worked this constitution yet—I think I am in favour of giving the Governor overriding powers in some matters, but at the same time I would suggest that provision should be made in the Statute that as soon as we have worked the constitution properly those overriding powers should be eliminated.

Personally, I am against the idea of a Second Chamber; I think it would merely create difficulties and be a fifth wheel in the coach, but I have left my mind open until I hear what will be the composition of this Second Chamber, what will be the franchise for electing members to it and what will be its functions. If it is merely a Second Chamber, a revising body in regard to Bills, I do not think it is necessary. I fail to understand how this Second Chamber will protect the rights of minorities. We have safeguards in the overriding powers of the Governor for the protection of minorities and in regard to other matters, and if anything liable to disturb Law and Order occurs and the Minister does not take timely action there is the overriding power of the Governor which can be exercised; in order to preserve the safety and tranquillity of the Province he can intervene. We agree that the Governor should be given certain overriding powers, and therefore he ought to be given power to restore demands which are rejected, for the purpose of carrying out those powers, and powers of certification in regard to Bills so far as those overriding powers are concerned.

I fail to see how setting up a Second Chamber would prevent the Governor from exercising certain overriding powers which have been suggested by the Simon Commission. It is suggested he should have overriding powers in order to secure the due fulfilment of any liability of Government in respect of items of expenditure not subjected to the vote of the Legislature. How would the Second Chamber help there, unless this power is given to the Governor? We may not have Security Services hereafter, but at present we have them and they will continue; and therefore if the salaries of the existing staff are cut down the Governor ought to have the power to intervene. Overriding powers are also suggested

to secure the carrying out of any order received by a Provincial Government from the Government of India or the Secretary of State, with a view to safeguarding the administration of Central subjects and so on. Those powers are necessary, but should be very carefully defined, so that we may not leave room for the re-introduction of powers of control over the whole Provincial field.

Raja Narendra Nath: I should like to make a few remarks on the subjects which have been under discussion this morning. First of all, with regard to Second Chambers and the desirability or necessity of creating them in the Provinces, I am one of those who admit the utility of Second Chambers. They certainly exercise a steadying influence over the Lower Chamber. The Punjab Government, however, has not proposed a Second Chamber and there is no general demand for it in the Province. It is not that there is any lack of men who would be suitable as members of a Second Chamber, or that they are unwilling to exercise their influence on the policy and administration of the Province, but because of reasons peculiar to the Province itself. Provinces which have proposed the creation of Second Chambers have at the same time come forward with the proposal that the preponderant influence of landlords should be counter-acted by the representation of other interests. The Maharaja of Darbhanga referred to the matter, and as far as I have read the proposals of other Governments I know that the necessity of representing interests other than those of landlords is admitted.

If that principle were admitted with regard to the Punjab it would create a difficulty to which I do not wish to refer in clear words. We have many controversial issues of a similar nature to settle before we create another one, and therefore for that reason I am not asking for the creation of a Second Chamber in the Punjab, although I think that, if one were created, it would exercise a healthy influence; though in regard to that many of my friends may differ from me. However, that is my view and I must give expression to my own views. The difficulties are of the character at which I have hinted.

The next controversial question which has been discussed is the transfer of Law and Order. I listened very attentively to the speech delivered by Lord Zetland, and I admit there is considerable force in his arguments. At the same time, I know what has been urged upon the other side, namely that there have been Indian administrators who have with great impartiality administered Law and Order and have inspired confidence in all. On a small scale in earlier times I have had my own experience in this matter, and I think I was able to administer Law and Order to the satisfaction of those below and those above. But it is said that the circumstances were quite different; the Indian officers who administered Law and Order were not responsible to the Council or to a populace or to an electorate. It may be so, but everything depends on how that electorate is composed. I will not trench on controversial questions, but it seems to me that every sub-

Committee has got something in common with sub-Committees which have been appointed. I would not encroach on the functions of other sub-Committees, but it seems to me that if we are able to solve minority questions to the satisfaction of all, most of the difficulties will disappear.

The mentality evinced by Indian administrators and Indian Ministers during the last 40 years will be different from the mentality which will be created under the new circumstances, if we are able to grapple with the problem to which I have referred. In that hope, therefore, I would support the transfer of Law and Order, because the performance of duties is learnt by undertaking responsibilities and learning how to discharge them. An atmosphere has undoubtedly prevailed during the last 40 years, due to circumstances to which I am not referring in detail, which makes the outlook for the future also somewhat disappointing; but if the circumstances are changed I think we can look forward to a better and healthier atmosphere.

With regard to the inclusion of minorities in the Cabinet, there seems to be a consensus of opinion that important minorities should be represented in the Cabinet, and though no statutory provision is necessary a sort of convention may be created, or a clause may be inserted in the Instrument of Instructions from the King to the Governor drawing the attention of Governors to the desirability or necessity of including minorities in the Cabinet. I am not one of those who say that the Simon Report, or any superstructure built on it, should not be touched with a pair of tongs. I have come across on the same boat as Sir A. P. Patro, and I have carefully studied the Simon Report and the Despatch of the Government of India based upon it; and I think the solution which has been suggested by the Government of India is the most satisfactory. They say that they do not fail to recognise the strength of minority apprehensions, and that they give general support to the suggestion put forward by the Government of the United Provinces that the Instrument of Instructions to the Governor should include an obligation to attempt to secure the representation of a minority community in the Cabinet where such a minority is of sufficient importance to warrant it. I think that would meet the case; I do not think we should encumber the Statute with provisions which can be made otherwise.

With regard to the appointment of a Chief Minister, I think undue importance is being attached to that term. There will always be the leader of the majority party, by whatever name he is called. In the Punjab there has been no Chief Minister, but there has been a Minister who has had the largest following. He is not called the Chief Minister, but words do not matter; so long as the man who commands the majority of followers in the Council is consulted it is all right. I think some of the discussion about a provision in the Statute or elsewhere with regard to the appointment of a Chief Minister has been unnecessary.

Sir Chimanlal Setalvad: We have already occupied considerable time in debating the various points that are before us, and I will

be as brief as I possibly can. I do not share the view to which expression has been given by my friend Sir Nawaz Bhutto; he drew a very gloomy picture of the state of the Presidency of Bombay, and if his picture is true it is really a plea for abolishing all transferred subjects, scrapping even the Montagu-Chelmsford Reforms and going back to autocratic government.

Fortunately, however, the picture drawn by him in my humble view, is not correct at all, and though I do not say for a moment that there are no difficulties, it is not for us unduly to exaggerate them, and to say that this or the other thing cannot be done. Considerable discussion has taken place on the question whether law and order should be transferred or not. Various doubts and anxieties have been expressed. It has been suggested that the department of law and order should remain with a non-official minister, that the police should be in the hands of a neutral authority—I do not know exactly what was meant by that—and Lord Zetland expressed anxiety with regard to the state of things in Bengal, and doubts as to the desirability just yet of transferring law and order to ministers responsible to the legislative council. But I implore him and all the members of this Committee seriously to consider that, while you are doubting and hesitating whether Hindu or Muhammadan can be trusted properly to administer law and order, events are marching fast in India, and if you continue to hesitate and to doubt and to weigh this and the other, take heed—I am saying it in all seriousness—if there is no real transfer of power there will be in a few years no law and order left in India to administer, and you will have to go on administering the country by force. You have to make your choice. There may even be mal-administration for a time if you transfer law and order, but the choice you have to make is as to whether you will, so to speak, in the hope and expectation and firm belief that ultimately, when responsibility is thrown upon the people, things will come all right, act according to that faith, or whether you are going to take the alternative of disturbing law and order continuously, not in one Province but in the whole country, and carry on rule with armed force. Sir, I say this with all seriousness, and with all emphasis, not by way of any threat, not by way of trying to frighten anyone; but I say it because I feel deeply about it. I feel convinced as to the truth of what I am saying, looking at the events which were happening in India while we were there, which are still happening after we have come here, and which are bound to happen unless the British Government are prepared to do something big that will arrest the imagination of the people and bring them back from the ways in which they have travelled, putting before them something which they think is worth working for. Unless you do that, things to my mind are hopeless, and I say this in all seriousness, I, who have always been a supporter of law and order, who have always been, as we Liberals have been, reasonable supporters of Government, we who have surrendered large incomes in order to take up and work for reforms, we who know the people, we who know the conditions obtaining in our Presidencies—I say

that I warn you again that if you go on tinkering like this, hesitating and doubting whether this can or cannot be trusted to the Indians you are committing the greatest blunder in history. I will pass on.

As regards law and order, look at the state of things in Indian States like Hyderabad and Kashmir. In Hyderabad 90 per cent. or more of the population is Hindu. There is a Muhammadan ruler, a Hindu chief minister, and law and order is administered there by the Muhammadan ruler and a predominantly Muhammadan cabinet over a 90 per cent. Hindu population. Is there any trouble there? In Kashmir we have the reverse position. There we have a Hindu ruler, with a very large proportion of Muslim subjects. Law and order is administered by members of one community though that community is a minority in the Province. If you once throw responsibility on the shoulders of the Indian ministers I do not see why there should be any trouble there at all. Therefore I appeal to you to put the utmost confidence in the Indian, if you are going to trust him with self-government, and see what happens. I assure you, you will not be disappointed.

Coming to the various other subjects about the overriding powers of the Governor, I submit that if you have full autonomous government in the Provinces, you cannot have vested in the Governor the present powers of interference. For instance, at present he has the power of certifying any bill or law which the legislative council has rejected. He has the power to restore any grant which the legislative council has thrown out on the presentation of the budget. That power acts in a very vicious manner. It makes the legislative council irresponsible, it makes the executive also irresponsible in a sense. Let us say that the question of a particular grant or a particular bill is put before the legislative council, the council, if it has some grievance, may throw out that particular proposal irrespective of its merits, because it is fully conscious that this will not bring the government to a standstill, and that the Governor will restore it. But if they knew that when they threw it out the responsibility would be upon them and upon their ministers to carry on the administration, they would think twice, thrice and many times before they threw out any grant except on its real merits. The present power of restoration of grants engenders irresponsibility in the members of the council, because, as I have pointed out, they are sure that whatever pranks they play, the King's Government will be carried on. There is the power of restoration, and they know full well that it will be restored. Therefore I submit that those powers of restoration of grant and certification should go. The powers vested in the Governor under Section 52 (3), in which he is entitled to take action contrary to the advice of his ministers should also go. I quite admit that if there is breakdown in the constitution or if the tranquility and peace of the Province may so require, he may be given certain powers circumscribed by proper conditions.

Then, in this connection, the question of Second Chambers has been put forward. In my humble view it would be a great mistake

to institute Second Chambers in the Provinces. We have the considered opinion of a majority of the local government against the institutions of Second Chambers. If you institute Second Chambers you produce occasions for conflict and strife, and instead of smoothing the work of administration you will create difficulties where none exist at present. Some members suggested, very disinterestedly, that a Second Chamber will be a very good thing for the protection of minorities and other interests. I fail to see how the Second Chamber is going to protect the minorities, and, as has been pointed out already, you will have immense practical difficulties. What is the Second Chamber to do? Is it to have co-ordinating powers, and the same sort of powers with regard to the budget as the lower house? If you do that, you immediately put both Houses in conflict. Are they to have a co-ordinated voice in every matter considered by the legislative council? It would be very difficult in practice to adjust the relations of the two Houses, and occasions for conflict would be created where at present none exist.

Then with regard to the suggestion about the Chief Minister, I have carefully heard what has been said against it, but I still hold to the view that the best system is to have a chief minister who recommends to the Governor the names of his colleagues. No doubt the Governor, if there be special reasons for not accepting his recommendation, must refuse it, but I do not see how you are to have the principle of joint responsibility working unless you have the chief minister. How can you put together three or four individuals who are not of the same mind and are selected by the Governor independently of each other? How are you to get them to work with joint responsibility? You must devise some system by which the ministry brought together is one that will work in common, and that can only be done by following the ordinary procedure adopted in these matters. The Governor sends for the persons having the largest following and asks him to undertake the administration and suggest to him the names of his colleagues.

Then, Sir, a lot has been said about minorities and their protection, that a certain provision should be statutory or a convention, or that some other method should be taken. May I appeal to all the members of this Committee that we should not complicate the issues before us by going into the question of minorities. The question would include their proportion in the councils, their places in the cabinet, in the services, and all the various safeguards, and this question is going to be considered by a special Minorities Committee. All these questions will have to be considered in a Committee with other people who are not here to-day, but who are interested in the question. As some members know, there are conversations proceeding on these very subjects between the people who are working with regard to Hindu and Muslim minorities and other questions, and it is very likely—I hope it will be so—that these questions will be satisfactorily settled by mutual agreement. Therefore let us not complicate the situation by discussing piecemeal the question of minorities as regards the Provinces. The

question has to be looked at as a whole for the whole of India. Let that subject be considered comprehensively by the special Minorities Committee which must deal with all these questions, their place in the Cabinet, in the services, in the legislative councils, and other analogous questions. I beg of you to leave that question to be dealt with by that committee where all these considerations and many more may be considered, and some proper solution reached.

Raja of Parlakimedi: I rise to offer just a few remarks in favour of second chambers. The institution of second chambers throughout the Indian Provinces, I feel, is very necessary. The Provinces are vast, their population huge, their interests varied, and in many Provinces these interests clash with one another. Not long ago in my Province an attempt was made by the party in power to deprive certain owners of property of rights which they had held hereditarily for ages, and had it not been for the support which those who were threatened received from the Central Government, legislation would have been carried of a very drastic nature with disastrous effects. India, like other parts of the world, has vested interests which are subject to attack, and unless there is such an amount of safeguard, the minority community run a great risk. The democratic system of government is, after all, an experiment, simply grafted upon the oriental mind, and countries that have worked the democratic system of government for long periods have found the necessity of continuing second chambers. It is necessary for India to have, for the time being, if not for ever, second chambers. These need not be entirely for a certain section of the land interests. The land interests in India have never tried to deprive others of their possessions or to encroach on their rights. Their ideal has been always to be useful to others and to further the advance of whatever comes under their control. It is the principle of the landed interest to-day also to see that, while seeking protection from encroachments on the part of others, it should not itself be a stumbling block in the way of other interests coming into the Second Chamber. In addition to the land interests, there are other interests, which also I have had occasion to study, and which have been rather neglected by legislatures in certain Provinces. If a Second Chamber were instituted which should include commercial interests, the land interest, and also the services, together with people of long experience, I am sure it would be a very desirable institution to hold the balance equal, and also a source to which minorities and vested interests could look for protection.

Sir Cowasji Jehangir: Since this question of an official minister has been raised by so important a member of this Committee as Lord Zetland, I may be allowed to say just a few words. Lord Zetland has agreed to the transfer of all departments, but from his experience in Bengal he has come to the conclusion that law and order should be in the hands of a man who is neither a Hindu nor a Muhammadan.

Lord Zetland: I did not say that this should necessarily be so, but that there should be a discretion.

Sir Cowasji Jehangir: I stand corrected. Lord Zetland thinks that there should be an opportunity for the Governor and the chief minister to appoint to this post a man who is neither a Hindu nor a Muhammadan, and in order to do that he has suggested that an official should be a minister. I understand, therefore, that his suggestion amounts to a possible safeguard with regard to law and order. Well, Sir, we have heard a good deal from other members as to the success with which Indians have administered the department of law and order in several Provinces. I am quite prepared to admit that these Indians had been members of the Executive Council. I understand that some Englishmen who have had experience in India may feel some hesitation on this subject, but Lord Zetland has given us an example to illustrate his point. He is apprehensive of adverse criticism of even just and honest conclusions and actions, and of the effect which this might have upon the morale of the police. May I point out that since Lord Zetland left India we have heard not a small amount of criticism of English members of Government all over India holding the portfolio of law and order. Such criticism has not come only from Hindus and Muhammadans, I venture to suggest that it has also come from members of his own community, and sometimes I even believe it is a truism to say that a man holding the portfolio of law and order cannot do anything that is right to-day, and it follows absolutely, as day follows night, that he is going to be criticised. I am afraid I cannot admit the argument that criticism of even justifiable actions on the part of the Minister, whether a Hindu or a Muhammadan, would affect the morale of the police. If that were so, the police would have very little morale left by now.

We have heard that the police have stood up to the great task which has been placed upon them with conspicuous loyalty to their Member and to the Government, and therefore the main argument which it seemed to me Lord Zetland put forward to support the Governor or the Chief Minister appointing an official does not really bear examination.

The second argument was that if he were a Hindu the Muhammadans might criticise; if he were a Muhammadan, the Hindus might criticise—the old communal question. But to-day, with an Englishman holding the portfolio of Law and Order, it is both Hindus and Muhammadans who criticise him! He is accused to-day of siding either with the Hindus or with the Muhammadans; he is sometimes accused by both for other reasons. Therefore in critical times, in times of difficulty and of communal tension, whether you have a Hindu or whether you have a Muhammadan or whether you have an Indian who does not happen to be either a Hindu or a Muhammadan, I am afraid he will be criticised and his just motives will be impugned. You are not, therefore, going to get over that difficulty by suggesting that in such times it would be an advantage to have an Englishman. I firmly believe that in

these critical times it is a distinct advantage to have an Indian—a distinct advantage.

Sir Chimanlal has very eloquently appealed to you all in the name of both England and India, and I need not add to that appeal. I would ask you to go forward with courage and, if you have any apprehensions, to choose the lesser evil. We who have to suffer, we who will lose most in India by disorders, by anarchy, by terrorism, we are prepared to take our courage in both hands. Many of us, who five or ten years ago would have hesitated to hand over Law and Order to a Minister, are not only prepared to do so now, but urge and advocate that it should be done for our own safety, and in the name of the connection between Britain and India.

I must just say one word about the question of the Chief Minister.

Chairman: Did not you give us that the other day?

Sir Cowasji Jehangir: Yes, but when you were absent Sir Ghulam Hussain mentioned that I had asked for a Statutory provision. I did not ask for a Statutory provision for a Chief Minister.

Sir Ghulam Hussain Hidayatullah: Then we both agree.

Sir Cowasji Jehangir: I asked that the matter should be dealt with in the Instrument of Instructions to the Governor.

Sir Ghulam Hussain Hidayatullah: I said the same thing.

Sir Cowasji Jehangir: There is a difference, and I really cannot see why there is all this objection. There are only two alternatives; either the Governor chooses his Ministers with the advice of one or two prominent elected members of the House, or one prominent member picks out the names of the Ministers for the approval of the Governor. The Governor will have the right to disapprove of any name, and he will have the right also of carrying out the directions he may be given under the Instrument to see that minorities are safeguarded. The great advantage of having a Chief Minister who will choose his own men and get them approved by the Governor is that there will be joint responsibility.

Sir Ghulam Hussain Hidayatullah: Without a large party at its back.

Sir Cowasji Jehangir: We have heard about the Governor's overriding powers, and I want to ask a question about that. A good deal has been said about Second Chambers. Is it open to us on the present occasion to raise the question of the life of the Executive, as to how many years the Executive is to last and as to the circumstances under which a vote of censure can be moved, or does that come under a separate head?

Chairman: I have already announced that I do not see how you can separate any of these questions from the composition and constitution of the Provincial Executive.

Sir Cowasji Jehangir: Under those circumstances it is a new issue altogether that I propose to raise, and I am afraid I shall have to deal with it. If it does not come under this head I will resume

my seat, but if you rule, Sir, that it does come under this head I shall have to deal with it, because it has not been touched on yet.

The life of the Executive, I presume, will be the same period as the life of the Legislature; if the Legislature is to have a life of four years I presume the Executive will also have a life of four years unless it is turned out by a vote of censure or by the rejection of a Bill or grant which the Executive considers of such importance that it chooses to tender its resignation. I think we must consider by what majority the House can pass such a vote of censure. We have heard a good deal about the desirability of stability; we have heard a good deal about the groups that exist in the Legislatures in India, and there is genuine apprehension in the minds of some that a Ministry under certain circumstances may undeservedly be turned out. Therefore, to give some stability to that ministry, it is necessary to consider ways and means. On that account I am one of those who believe that it would be advisable to provide in the Statute that no vote of censure should be carried without a two-thirds majority. That will give the stability which is wanted to the Ministry and which will help us and help those members of the British Delegation who are so anxious to provide stability by the overriding powers of the Governor.

I am not in favour of those overriding powers of the Governor, because our experience of dyarchy has shown that these overriding powers are often made use of on occasions which the originators and authors of the legislation never intended. I do not wish to go into details, but we have had experience of that and therefore, anxious as we are to have as little interference as possible from the Governor, and anxious as we are that a Ministry should be stable, I think it advisable that this suggestion of requiring a two-thirds majority to turn out a Ministry by a vote of censure should be considered. I would even go further and would be prepared to consider a definite life for the Ministry, as in America, say three or four years, and have a Ministry which cannot be turned out for three or four years.

Mr. Zafrullah Khan: Also at the Centre?

Sir Cowasji Jehangir: I am not talking of the Centre but of the Provinces.

Sir Chimanlal Setalvad: Then it is not responsible to the Legislature.

Sir Cowasji Jehangir: It is in a way, and I should have it appointed not by the Governor but by the Chief Minister in consultation with the Governor. I would suggest for the consideration of the sub-Committee that for the stability of the Ministry we should have these two provisions. I am not going to be dogmatic on the question, but since no one has alluded to these very important matters, and since under your ruling, Sir, they fall under this head, it has been my duty to place them before you for consideration.

Chairman: It is time for us to adjourn. I have some half-dozen speakers still on my list, and I think you will agree with me

that when I have exhausted those on my list I should try to give you what I conceive to be the sense of the Committee on the various points which have been discussed. I think we shall all agree that we cannot go round the table again; at least, I hope so. I have given a fair amount of latitude, and I hope that by about noon to-morrow I shall be able to sense the feelings of the sub-Committee on several of the points. If I feel satisfied that any point requires further discussion I shall separate it from the others and suggest that we discuss it a little further. We will hold two meetings to-morrow, at 11 A.M. and 3 P.M.

(*The sub-Committee adjourned at 4·45 p.m.*)

PROCEEDINGS OF THE FOURTH MEETING OF SUB-COMMITTEE NO. II (PROVINCIAL CONSTITUTION), HELD ON 9TH DECEMBER, 1930.

Sir Robert Hamilton: Mr. Chairman, the subjects which we have been discussing in this Committee have been very fully discussed in detail and I do not propose to deal with them at all in detail; but I thought that perhaps the Delegates from India particularly might desire to have an expression of opinion with regard to one or two of the points from another member of the British Parliamentary Delegations.

I should like to say at the outset that I think we must remember, having regard to the discussion which has already taken place, that in the matter of the transference of law and order we have not at all considered what the relationship of the Provinces to the Centre will be, and it might from some aspects have been more desirable if we could have carried on our discussions here having some knowledge of what that position was likely to be. I only mentioned that in passing because it is a very important point which we shall have to bear in mind.

With regard to the heading which is entitled: "Provisions to safeguard the administration of law and order," which we are considering, I may frankly say at once that I consider the best safeguard that can be given is the fullest responsibility that can be placed on the Minister. From whatever point of view you may regard it, responsibility must be the final and ultimate test, and if a Minister cannot pass the test of responsibility he cannot pass anything. Now, having said that, I should like to say a word or two with regard to the official Minister. It is obvious from the views which I have already expressed that I, in company with many of those who have already spoken—I think almost all who have spoken—feel that there are very great objections to an official Minister being included in a Cabinet on which there ought to be a joint responsibility, because the inclusion of such a Minister must inevitably go to weaken the joint responsibility of the Cabinet. But I should like to say this, that we have got to bear in mind that there may be difficult circumstances at the starting of the new scheme. We should as realists keep that before us. We want

to see the new scheme a success and we should not take any step or do anything which might impair a fair chance of success. That being so, I would not rule out the possibility of a Chief Minister asking to include an official in his Cabinet, particularly at the start. It may be necessary and I would not rule it out. But I am inclined to think that in the course of time the necessity, if such a necessity should exist, will lapse, and less and less will it become necessary for a Chief Minister or a Governor to go outside the ordinary elected members in order to form a Cabinet.

Now as regards the non-official Minister, to the same extent we, with our long experience in this country and with the great reserves that we have to call on, still feel it necessary sometimes to go outside the elected members and get a non-official to help the Government. I would not rule it out. We do not do it as a rule, but I would keep it as a possibility, especially when you remember the difficulties that you may have in starting the new scheme.

Now, when we come to the relationship of the Chief Minister and the Governor, in the same way I would say: do not make too hard and fast rules which may tie the hands of the person who has to start the machine at the beginning. I look to the Chief Minister inevitably eventually as being the person who will be called upon to select and form a Cabinet; but at the start it may be difficult; there may be very great difficulties in the way; there may not be a man sufficiently outstanding; there may be all sorts of personal difficulties in the way. Therefore I would only say: Do not make too hard and fast a rule at first which may tie the hands of the Governor in choosing a Cabinet. It is inevitable to my mind that as years pass by the most important man definitely becomes Chief Minister; he selects his Cabinet and he advises the Governor. As that is the inevitable rôle which I think must be followed I would not do anything which would hamper the machine at the start by tieing the Governor's hands too tightly. As regards his overriding powers, I think overriding powers such as may be reserved must be very very strictly defined and very limited in use; and again they will lapse in practice. It is astonishing to think at this present day what enormous theoretical powers the Crown in England has; but they have lapsed in practice because the responsibility has been a success. The more that responsible Government becomes a success the less necessary will be all the additions or safeguards so-called that are put in at the start. I do not think I need say anything further on that point.

I would just like to say a word in passing on the question of two Houses or one. We in England are accustomed to two Houses and we prefer it; but because we prefer it in England I do not think that should rule out anybody else who prefers one House having one House. There has been a very great difference of opinion expressed in India in different Provinces as to whether there should be two Houses or one. I would make no uniformity; if one Province wants two Houses let them have it; if another Province wants one House, let them have it. I would have it embedded

in the constitution that if they like afterwards they could change it and go from two Houses to one House if necessary. I do not see any vital reason why we should have uniformity in this. Conditions vary in the different Provinces; it may suit the circumstances of one Province to have two Houses and of another Province to have one House. Therefore as far as I am concerned I would leave that entirely open to the choice of the Provinces. All through as a general rule I would suggest that we should avoid any rigidity in framing the constitution at the start. Where it is necessary to have safeguards let them be in the nature of regulations and instructions which can be easily altered. It is very hard, as you all know, to alter anything which is once put in a Statute but it is very much easier to alter things which are put merely in Instructions. Having regard as I said just now to the great diversity and variety of circumstances in India, why should we worship a fetish of uniformity?

Finally may I say that when we are building, or attempting to build—and I hope we shall be successful in building—this enormous structure, we should be very careful to see that the foundations are of the firmest. It is my belief that the firmest foundation on which you can build is responsibility. If you build on those firm foundations, never mind your scaffolding which is necessary when the building is going up but when the building is finished the scaffolding can come down.

Mr. K. T. Paul: Mr. Chairman, as I am the first Indian member you are pleased to call upon to speak this morning, may I have your permission to say a word regarding a matter which is uppermost in the minds of most of us, I take it, regarding the incidents that have happened in Calcutta. I believe, Sir, I am expressing the view of my colleagues when I say that we have heard that news with great horror. Here a number of young men, three young men I believe, entered the chief Secretariat buildings with arms and shot down in cold blood officer after officer. We have come here for a settlement of the affairs of India which would make such a thing as that impossible, and the atmosphere provided by an incident like this is the last thing that is desirable. I do trust that public opinion in England will realise that those who are responsible for acts of this sort in India are a group which does not represent either the nationalist feeling as a whole or any of those whom we represent here.

At the same time, Sir, I feel it my duty to say that the way to make that impossible is by not merely—I say not merely because it is inclusive—stiffening the processes of control by the Governor. There should be no one in his common sense who would ask for anything else. At the same time I feel it my responsibility to state here in unmistakable language that some of the actions of the Executive through the police, recently particularly, have no doubt been the immediate cause of provocation for such senseless acts as these. Therefore I trust and hope and plead and beg His Majesty's Government to see if it will not be possible to carry on the most

rigorous and firm administration without having recourse at the same time to those excesses which are so often unjustifiable and in my view, speaking as an eye witness, so often brutal and immoral.

Sir, permit me to revert to the subject on hand, the making of a constitution. I am speaking as an amateur come for the first time into the arena of politics. It seems to me to be somewhat in the nature of filling a cross-word puzzle: the filling of any one House depends so much upon the way in which the other Houses are being filled. For instance, referring to the particular point and the only point I want to speak on this morning, namely the Second Chamber, the way in which I should answer that question as to whether we should have a Second Chamber or not depends to a very large extent as to how the other Houses are going to be filled. If the relationship between the Central Government and the Provincial Governments is one way, then a Second Chamber would not be necessary; if the powers of the Executive and the make-up of the Second Chamber are in another way, then a Second Chamber may be allowed or may be necessary. So that it is extraordinarily difficult, particularly to an amateur like myself, to come to a definite conclusion as to whether at this stage a Second Chamber is desirable or necessary.

But I still see very clearly one or two things which it is my duty to state here so that there may be no mistake about it. It has been argued that a Second Chamber will be necessary for the protection of minorities. Sir, in regard to a small minority like mine most of the things which are considered to be grievances arise not in the course of legislation but in the processes of administration. In regard to the prevention of such acts which are considered to be grievances or in regard to remedying them after they have taken place, I do not see how any good can come from a Second Chamber, I am speaking subject to correction; if it can be shown that a Second Chamber will really prevent administrative deviations or will be able to correct administrative deviations after they happen, then I am willing to vote for it; but so far I do not see how it can be so. Even as regards the interests of the landed aristocracy in the country it seems to me that the argument directed from that angle is also on the assumption that the Second Chamber will be made up in some way which will give perpetually to the landed aristocracy a place of security or dominance in that House. On the other hand, so far as I can see the trend of political developments in the country, I can only forecast that the real security for the landed aristocracy, or of industry, capital, high finance and commerce, or any such special interests, consists in making its case in the one Chamber which is popular and in carrying the good will of that Chamber in regard to their interests. It is there where all the interests are represented, where labour is represented as well as capital, where the peasant is represented as well as the landlord, where all the communities are represented and not merely the small minorities; it is there that on principles of good government, high policy, mutual understanding and generosity, each

special interest is represented and should carry the convictions of the whole House.

In addition to that, the steady development of democratic ideals in the rising generation will render a Second Chamber a constant irritant to them. Your Swarajists of the future will fasten their teeth in the Second Chamber and either ask for its abolition or work for its emasculation to such an extent that anything that is expected of it will become impossible of fulfilment.

All I have been saying with regard to a Second Chamber depends on how it will be constituted. We have not been told by anybody what scheme there is. Almost everyone who spoke here yesterday spoke about a Second Chamber, but it seemed to me everyone spoke with a mental reservation and assumed there would be a full dress debate about it. There was no attempt to discuss how it should be constituted and what its powers should be with reference to the Lower House or with reference to the Executive: for instance, whether the Executive should be responsible to it or not, and if so to what extent. I do hope, Sir, that when you summarize the discussion with regard to all the points at the end of our session this morning you will still allow some time, either this afternoon or to-morrow, for a full dress debate on the Second Chamber, when someone who has convictions about it will be able to make us visualize the whole story of how a Second Chamber is to be constituted and what its various relations will be. Meanwhile I do not see how a Second Chamber can be a protection to my minority or to any special interests whatsoever.

Mr. Zafrullah Khan: In view of the fact that yesterday morning you, Sir, were pleased to enlarge the scope of the discussion and were pleased to direct that members may express their views on all the sub-heads included in Item 2, I will, with your permission, add a few observations to those which I submitted on Friday last.

The views put forward by the Marquess of Zetland have been already submitted to a considerable amount of criticism and discussion. I believe it is the just due of his great personal ability and experience that the views put forward by him should be submitted to minute and careful examination in order to see exactly what his apprehensions are and whether the suggestions put forward by him are likely to meet those apprehensions; that is to say, in practice how will his suggestions operate, and will they obviate the dangers which he apprehends may arise in case there were no such reservations in the constitution as he proposes.

Now, I must confess that I found myself a little unable to follow in complete detail the exact suggestions put forward by His Lordship. He first started with the position that although in some quarters it had been suggested that, with regard to some Provinces at least, the Department of Law and Order might be reserved, he personally, while thinking there was a great deal of justification for that view. was of opinion that the advantages likely to

result from the reservation of Law and Order were far outweighed by the disadvantages that would result therefrom. The first position he took up, therefore, was that if there is going to be any further transfer of subjects, it is proper that all subjects should be transferred. That being the first position, we want to show to our people in India that we have agreed that dyarchy in the Provinces shall disappear.

Then he went on to detail his apprehensions with regard to the administration of the department of Law and Order, and there are two positions which he took up. He was at pains to explain to the sub-Committee that he was not of opinion that merely on account of difference in race a British Minister or a British administrator of the department of Law and Order would be more competent to administer the subject than an Indian. I do not think there need be any apprehension that he intended in any way to question the competence or the ability of an Indian Minister to administer the department. He made two points, however. First of all he said that a European as such would be likely to take up a more unbiased and neutral view of any situation that might arise, and secondly he said a European would not be subject to the pressure or coercion of members of his own community in the Legislature in taking or in refraining from taking any measures to cope with any particular situation that might arise.

Let us consider for a moment whether the remedy suggested by him would work out as he said it might. He said he was not confident the time had come when immediately the department of Law and Order could be administered by somebody who was responsible to the Legislative Council. That is rather in conflict with the conclusion recorded on the first point.

Lord Zetland: May I correct the hon. member there? I did not object to that; I quite agree that if a non-elected Minister is brought into the Ministry he shall be responsible to the Legislature in common with his colleagues.

Mr. Zafrullah Khan: The position was that discretion should at present be left to the Governor so that if on any particular occasion he felt it was necessary to do so he might bring a non-official non-elected person into the Cabinet, and that that non-official non-elected Minister should, along with his other colleagues, become responsible to the Legislature. So far as that is concerned, I am not clear in the first place whether Lord Zetland advocated that there should also be a discretion to include an official Minister or not, and secondly, whether the non-official Minister who was to be included should on all occasions be a European.

If the non-official to be included may be a Hindu or a Muhammadan, his appointment is open to the same objections from the point of view of Lord Zetland to which the appointment of an elected Hindu or Muhammadan Minister would be. He would be as much liable to pressure by members of his own community in the Legislative Chamber as would be an elected member who is

appointed a Minister. If, on the other hand, he is going to be a European in all cases, I seem to recollect that when some member suggested it would be possible for the Governor to select an elected European member of the Chamber for the portfolio of Law and Order, Lord Zetland took the view that such gentlemen are generally members of the commercial community and can ill afford to leave their business to take charge of the portfolio of Law and Order.

Viewing the situation generally, whoever the Minister may be, if he is responsible to the Legislature along with his colleagues then, along with his colleagues, he is subject to the same amount of pressure from the Legislative Chamber in the administration of his portfolio as any of his colleagues. The policy which he is going to pursue will be a policy which has been approved by the whole Cabinet; and, if that is so, it does not make the slightest difference, if in reality you are going to enforce the doctrine of joint responsibility, and if in fact and not merely in theory everybody, whether he is a European or a Hindu or a Muhammadan or an Indian Christian or a Parsi, so long as he is inside the Cabinet, is going to work as a member of a team and is going to take full responsibility for all the measures of all his colleagues it does not make any difference who is administering Law and Order.

The safeguard is there, and if by putting in a non-member Minister or an official Minister you are seeking to give him, as it were, a larger discretion and in some way invest him with immunity from pressure from the Legislature, to that extent you will really be reserving that department. It will mean that while you want to show you are transferring it you are really wanting to reserve it; and, whatever else you may do and whatever else you may concede or not concede, I warn you of one thing: do not seem to be doing a thing when you really do not mean to do it. If you proceed in such a manner, any scheme of reform you put forward is bound to be wrecked, because more than anything else we must start in an atmosphere where the people of India will believe that whatever seems to have been conceded has actually been conceded and is meant to be conceded, and that when we say dyarchy must disappear from the Provinces it does disappear, and that we are not bringing in a camouflaged sort of dyarchy by reservations or safeguards or whatever name we may give to them.

The Marquess of Zetland asked what the safeguards are with regard to the administration of Law and Order. There is no doubt that a great deal of apprehension has been felt with regard to the administration of this portfolio. One safeguard has already been suggested by Sir Robert Hamilton, who has said that the best safeguard is the fullest sense of responsibility of the Minister who will be entrusted with the portfolio of Law and Order. That is one safeguard—the natural anxiety of a man who is placed in that position to make good. That anxiety would ordinarily override any other considerations of a communal or other character by which he might be likely to be influenced. That is one thing.

Then in actual practice, as to the orders he should give or the policy he should pursue, he will have the advice of the permanent staff of the Police Department; naturally all proposals and so on will come to them. There is also the doctrine of joint responsibility, which means that matters of policy will always be discussed by the Minister with his colleagues, and a certain policy settled which he will be bound to follow. Then there is almost unanimous agreement that there should be some sort of overriding power of the Governor in the Department of Law and Order, and that is a safeguard. If, nevertheless, an apprehension is felt that a situation may suddenly arise with regard to which orders have to be given, and that that requires that somehow the matter should be so circumscribed that no one should be able to take independent action, I am afraid that if that argument is followed to its logical conclusion it would mean that no Indian should be employed in the Police department at all, because often the first action to be taken has to be taken by the Superintendent of Police of the district where the occurrence takes place, or by the District Magistrate of the district and the higher Police officers. If you argue that no Hindu or Muhammadan is capable of discharging his duty impartially in a crisis like this, it is an argument that no Hindu or Muhammadan should be employed in the Police force at all. By the time the matter reaches the Minister it has become a question of policy and not of giving instructions as to what should be done in a particular emergency, which is not the business of a Minister in any department. There will be these safeguards. The Minister will have the advice of the Inspector-General of Police and he will have an opportunity of discussing matters with his colleagues, and then, in grave matters, the Governor can interfere. I think sufficient safeguards are thus provided and that the apprehension of Lord Zetland that the time has not come when you should really transfer Law and Order to the control of the Legislature is not well founded.

The second topic on which I wish to submit one or two observations is that of Second Chambers. With regard to this I agree entirely with what has fallen from Sir Robert Hamilton, namely, that each province should be allowed in this matter to express its views, and if some provinces desire that Second Chambers should be set up in their Province those Second Chambers should be established; in other words, the recommendation of the Government of India on this matter should be followed. Those Provinces which have asked for Second Chambers should be allowed to have them, to begin with at any rate, with power to do away with them if experience shows that they are not fulfilling any useful purpose. Other Provinces, which have definitely said that they do not want to be saddled with Second Chambers, should not be forced to have them, although I think even there power may be given that if, after experience, they think they ought to have them they may be able to pass constitutional legislation and set them up.

I do not think the matter can be carried any further so far as the constitution of these Second Chambers is concerned, and so far as my own Province goes, the people of my Province have not asked for a Second Chamber. The Legislative Council has not asked for it; the Provincial Committee said they did not want it; the Provincial Government have said they do not want it, and the Government of India has said that it need not be set up in the Punjab. I wish it to be noted, therefore, that so far as the Punjab is concerned from no quarter has the demand been made for a Second Chamber in that Province.

The third matter to which I want to refer is one to which allusion was made yesterday by Sir Cowasji Jehangir. Dealing with the question of what he described as the life of the Executive, he was of opinion that, having regard to the peculiar conditions prevailing in India, the Provincial Executive should if possible be made irremovable during the lifetime of the Legislature, or, if it was to be removable, then it should be liable to removal only by a vote of censure supported by a two-thirds majority of the Legislature.

To that suggestion I have to take the strongest exception. If you make the Provincial Executive irremovable altogether, there is an end at once of responsible government. What Executive will consider the wishes of the Legislature in any matter if it knows that however it acts it is not liable to be removed by the Legislature? After all, the whole doctrine of constitutional responsibility involves placing power in the hands of the Legislature to turn out the Executive if the Executive no longer possesses the confidence of the Legislature. I do not think this suggestion requires any detailed examination to be rejected.

The next suggestion is almost on a par with the first; that is to say, it is suggested that a majority of two-thirds of the members of the Legislature should be required before a Ministry can be legally censured and turned out. Let us look at the implications of that suggestion. Would Sir Cowasji Jehangir, for instance, say that a majority of two-thirds would also be required to reject any grant included in the budget, or the whole budget for that matter? If the budget could be defeated by a majority of one vote and the whole machinery of government brought to an end, it is rather illogical to expect that a mere vote of censure, asking for a change in the Ministry, should require a majority of two-thirds. If you allow the budget to be passed or defeated by a majority of one, you are allowing a majority of one to do a much bigger thing than merely censure the Ministry, and as a consequence of that majority of one the Ministry will have to go out; yet for a vote of censure at any other time you require a majority of two-thirds.

Secondly, you are making it possible for the Government to select a group of ministers who command in the House the support of one-third of the members. If they do that and are able to maintain that support then they cannot at any time be turned out.

I do not know what sort of responsibility you are bringing in, nor why Sir Cowasji Jehangir was so particular that the Governor must be a constitutional Governor, and that he must have a Chief Minister who would select his own colleagues. If we want to make any change in the constitutional doctrine that a Ministry can at any time be turned out by a vote of censure or of "no confidence," subject to safeguards that it should not be a snatch vote or a vote which does not really represent the wishes of the majority, we shall be doing away with responsibility. I do not think that the wishes of the majority should be flouted in this or any other matter. I am reminded of another safeguard in connection with the stability of Provincial Cabinets which the Simon Commission recommended. They have suggested that the Ministry should be turned out only on a vote of censure of which due and proper notice has been given—and with that I agree—but they have also said that the salaries of the Ministers should be laid down by statute and not altered except by statute. To that also I have no objection, provided that it means a Provincial Statute after the new constitution has come into force, but I do object to it in other circumstances if it would mean that the question of salaries was now to be settled by Parliament, and settled on the scale at present operating in the Provinces. That would not be equitable at all. Some Provinces have reduced the salaries of Ministers already; others have not reduced them on the ground that a revision was pending. In some Provinces the Ministers are being paid far more highly than others, although perhaps the responsibility in the less highly paid Provinces is the greater. I would therefore suggest that any kind of safeguard in respect of Ministers' salaries should be embodied in a constitutional statute laying it down that within a definite period after the new constitution comes into force each Provincial Chamber shall be required to pass a statute fixing the salaries of the Ministers in that Province, and if that is accepted by the Governor and passed into law, those salaries shall continue and shall not be liable to reduction by a vote in the Legislative Chamber, any alteration in them being brought about only by a subsequent Statute.

One matter has been mentioned by one or two members of the Committee, but not pursued further, presumably owing to the fact that it is not a matter with which the Statute can deal, though it is of some importance in administration. It concerns the selection of Governors for the Provinces. We are aware that that is a privilege of His Majesty alone. He can appoint whomsoever he chooses, but certain conventions have in the past been followed with regard to the appointment of Governors of different Provinces. To the Presidencies ordinarily a British statesman or public man from England is appointed, and to the other Provinces some member of the I.C.S. We have therefore Provinces which have ordinarily British public men appointed as Governors, and Provinces which have ordinarily I.C.S. Governors. In this connection again I think the position is going to be different under the new

constitution. If the doctrine of the real and complete responsibility of the Provincial Executive to the Provincial Legislature is to be enforced it is a logical conclusion that the Governor must be appointed from outside the cadre of the Services. Otherwise the position will be this, that a gentleman may be appointed Governor of a Province who has for years served the Ministers in another Department and been subject to their orders. If the Ministers are conscious all the time that any one of the Heads of Departments in their Provinces may be appointed Governor over their heads we really to that extent weaken their responsibility and make them subordinate to the wishes of senior members of the I.C.S. from whom a selection for the appointment of Governor may be made.

I generously and frankly concede that the distinguished band of officers who have belonged to the I.C.S. in the past have rendered enormous service, and so long as the Service continues we are confident that those traditions will remain. It is no reflection upon them to say that if Governors continue to be appointed from the I.C.S. it will directly affect the sense of responsibility of the Ministers and the Government. A Convention should now be established that in future Governors should be appointed from outside, either British or Indian statesmen, who shall not be members of any Service.

Sir Abdul Qaiyum: When I asked for permission to speak it was only on the spur of the moment, desiring as I did to make a few comments, but after hearing the last two speeches I find that most of the points I wanted to lay before the Committee have been put forward in language better than my own. What has struck me as a layman—not a constitutional lawyer—at the hearing of the speeches yesterday is that there is no idea of leaving any powers with the Government. Everybody spoke of cutting down the discretion of the Governor in every direction and leaving him without any actual and practical powers in the administration of the Province. If that is so, the thought occurs to me that we might as well select a President, something like the President of a Republic, and do away with the nomenclature of a Governor altogether. If there is going to be a Governor, and he is expected to control the policy of the Province, he must have some sort of discretion to exercise in the administration of that Province when ordinary machinery fails to run that Province efficiently. In ordinary administration there will be some subjects which will be left to the Federal Government. What remains must be left to the local Council, and in this respect the Governor will have to possess some sort of control in giving assent to legislation passed by the Council or in certifying allotments in the Budget, and perhaps some overriding powers in matters of an executive nature. Without those powers I do not believe that the Governor will be worthy of his position. How far and elastic those powers should be is for my constitutionalist colleagues here to define more clearly, but from what I learned yesterday I gathered that no discretion was to be left to the Governor.

The second point that struck me is that if we are going to do away with dyarchy, and if the responsibility of the Ministry of the future is to be joint, then any particular way of putting up safeguards in the constitution will be practically bringing back the dyarchy. It will look as if we are still going to have the dyarchy in one form or the other. I think it will be most advisable if we can form a constitution which will not give to the people of India the idea that dyarchy is to be retained in some form or other.

There is another point which strikes me. It relates to the suspicions and doubts in the minds of the various communities in India with regard to one another. If we are trying to bring in safeguards to give some sort of assurance to the people that they will be safe under the new constitution, I am afraid we shall never come to the end of framing that constitution. There must be some confidence placed somewhere between the rival communities in that country. We are framing the constitution as if we were lawyers of a rather questionable type trying to draw up a deed in which there might be some loophole of doubtful phraseology to enable a way of escape later on. If we are framing our constitution in that spirit I do not believe we shall proceed very far. Even the dyarchy which we had in the last constitution was not so bad in its legal form as it came out to be in practice. The fault lay on both sides. On the Indian side they thought there was this dyarchy and that they were not going to be given any real power even in the transferred subjects. On the other hand, others were not allowing them the full amount of authority in those subjects and the budgetary allotment which they wanted for the improvement of those subjects. If it had only been worked out in a better spirit perhaps that constitution would have given much better results.

Many members of this Committee and of the Conference have spoken on the sentimental aspect of the question, and I for one would also appeal to the Committee not to worry themselves so much with the technicalities of the situation, but to leave it to the good sense of the people who are being given a chance to take part in the administration of the country with greater freedom and responsibility in the future. I think it must be realised by now that India is determined to take some real share in the administration of her affairs, and if that is the spirit of the Britisher in giving Indians their future constitution, we need not be afraid if the legal language of the constitution is a little defective here or there.

Dr. Ambedkar: In offering my remarks I will proceed in the order of the questions which have been circulated. The first relates to the constitution and composition of the Executive. With regard to the constitution of the Executive, it seems to me that there is more or less agreement on two things. First of all, it is agreed that the distinction between the reserved and the transferred subjects should vanish, and that the Executive, instead of being a divided Executive, should hereafter work as a unified

Executive. It is true that Lord Zetland took some exception with regard to the transfer of law and order.

But as I understood him, his objection was not to the transfer of law and order so much as to the necessity of providing in the actual composition of the Executive itself some element whereby an impartial individual who is neither a Hindu nor a Muhammadan will be provided for. I believe I have understood him rightly. But if his objection is that law and order should not be transferred at all, then I would just make two observations with regard to that position.

My first observation will be that the argument on which he has based his conclusion that law and order should not be transferred seems to me to prove too much. It will always be the case that in India as it is constituted there will be a Hindu or a Muhammadan who will be in charge of that particular portfolio.

Mr. Joshi: Not a Christian?

Dr. Ambedkar: It may be, but I am taking these two communities for the moment because they are important. It seems to me that any argument which is based upon that fact is an argument which leads to a conclusion which will never enable us to transfer law and order. Therefore it seems to me that that is an argument which ought not to be adopted or accepted. It seems to me also that the noble Marquess assumes that although a Muhammadan or a Hindu will be in charge of the department of law and order, he will be entirely subject to the whims of the particular community to which he belongs. My submission, Sir, is this, that that assumes that the future of political parties in India will be so constituted that they will be divided on religious lines and not on the lines of political or economic differences. As I view the situation it seems to me that in the future constitution of India the Executive will be so divided that we shall see less of the religious and racial distinctions coming to the surface and we shall find a Hindu Minister having a party and a following containing a large element of Muhammadans, and a Muhammadan Minister with a following of Hindus in his group. If that happens, and I take it it is almost a certainty that it will happen, I do not understand how, for instance a Hindu Minister who is in charge of law and order could administer law and order in such a manner as to offend the susceptibilities of a part of the group which supports him in office. It seems to me therefore that the fears so far as this particular aspect of the matter is concerned are rather unfounded.

The second thing which seems to be agreed upon more or less is this, that not only should the Executive be a unified Executive but that the responsibility of this unified Executive should be joint and not several. With these conclusions, Sir, I agree, but the points of difference that have arisen in the course of the debate to which we have listened largely relate to the composition of the Executive and it seems to me that there arise three different questions for our consideration in connection with the composition of

the Executive. The first question is: should the Executive be confined to members of the Legislature or should it be open to individuals who are officials or non-officials and who are outside the Legislature? The second question is: should it consist of members of the minority communities? The third question is whether the Governor should have the responsibility of appointing the Ministers himself or whether he should appoint the Chief Minister and leave the matter of the selection of his colleagues to that Chief Minister.

Now, Sir, on all these three questions my answer is in the affirmative. Personally, I do not see why the membership of the Cabinet should be rigorously restricted and confined to the members of the Legislature. I also do not see why there should not exist some provisions whereby the Executive should not be made as representative as possible of all the communities that are represented in the Legislature. Thirdly, regarding the power of the Governor to compose his Ministry, it seems to me that we must admit that it is his preoragative right to constitute the Ministry and that you must have discretion left to him in the matter of selecting his men. But, Sir, when I say that I answer these three questions in the affirmative, namely, that the Executive need not be confined to the members of the Legislature, that some provision should exist whereby different communities may be represented in the Cabinet, and that the Governor should have left with him abundant discretion in order to form his Cabinet—I say when I make these admissions I make them subject to one supreme condition. That supreme condition is that however the Executive is composed, it shall abide by one principle, namely that it shall accept joint responsibility. If, for instance, this principle of joint responsibility is made obligatory upon the Executive, it seems to me that the importation of a foreign element into the Cabinet will not be a disturbing factor as it is supposed to be. If, for instance, the new-comer who does not belong to the Legislative Council comes into the Cabinet and accepts joint responsibility along with the Cabinet, I do not see any reason why such a procedure should not be permitted. It was pointed out that it may so happen that when a Ministry is censured and it goes out, the official or the one who does not belong to the Legislature will remain while the other members of the Cabinet will go out; that when a new Ministry is formed, he will be again tacked on to the Ministry and that he will be perpetually in the Council. It seems to me with all respects that that is a somewhat fallacious view, because, unless the members who are drawn from the Legislature to form the Ministry are prepared to take him along with them and are prepared to bear the responsibility of his actions, they will not consent to work with him; they will consent to work with him only on these terms, that he accepts their advice and they accept his advice. If, for instance, a Prime Minister were so situated that he could safely take an outsider into his Cabinet and at the same time maintain the confidence of the House, I do not see why the

Chief Minister should be prevented from having that privilege accorded to him.

In the same way, Sir, if, for instance, it was found possible that the Governor should have powers to see that the different minority communities are represented in his Cabinet, and if at the same time it is made perfectly clear that whoever is appointed to the Cabinet must accept joint responsibility with the others, then I submit there is no harm in allowing this sort of thing. It seems to me therefore that the point which it is necessary to emphasize is that the Governor may have the power which as I say belongs to him as of right to compose the Ministry in any way he likes provided that the Ministry does not violate in its operation the principle of its being, namely, that it is to work on the principle of joint responsibility.

Now the next question to which I will address myself, Sir, is how best to achieve this result, how best to bring out a responsible and unified Executive. It seems to me there are two ways open to us. One way is to define in the constitution itself the character of the Executive by law; the other is to leave to convention the constitution of the Executive. Both these ways are adopted, as you all know. We all know that in the Dominions of Canada, South Africa and Australia, responsible government of a unified character is entirely a matter of convention. Everyone of us knows that in the Canadian Act or in the Acts of South Africa or Australia the words "responsible Government" do not arise. It is not even mentioned in the Canadian Act, as I found to my great surprise, that the Ministers who are to advise the Governor are to be members of the Legislature, although as a matter of fact they are. On the other hand, as we know, in the constitutions of Ireland, Malta and Rhodesia this is a subject which is not left to convention, it is something which is incorporated in law. In Ireland we know that the Prime Minister is a creature of statute, the joint responsibility is also defined by law.

I therefore think that we shall have to make our choice between the two, and in making the choice I for one would be guided by two considerations. I fully realise that when a matter is left to convention it is possible that the convention may be wrongly worked, that it may be abused, and may be abused with impunity. The danger of matters being left to convention in a country like India seems to me to be greater because there are no parties in India which have a keen eye on the way in which the constitution works and we may have ministers less interested in working the constitution in the right spirit than in maintaining their seats in the Cabinet. On the other hand it seems to me that where matters are defined by law it must necessarily take away all the discretion that must necessarily be left to a Governor. In a country like India where the political field with all its communal and racial difficulties is an absolutely uncharted sea, it seems to me that we must so contrive that sufficient discretion will be left with the

Governor. My concrete suggestion therefore is this, that joint responsibility of the Executive should be prescribed by law and that everything else should be left to the discretion of the Governor, so that we shall have satisfied both the conditions: we shall have provided that whatever responsibility there is is joint responsibility and that the composition of the Executive is at the same time not hampered in such a manner that the communities which do require to be represented in the Cabinet may be represented or that the necessity which a Prime Minister may feel of having a non-official, I mean an outsider, in his Cabinet is provided for. If we do that, if we insist by law, not leaving it to the discretion of the Governor, that the Executive shall be a joint Executive with joint responsibility, I think all other matters may be left without any fear of abuse to the choice of the Governor.

Now Sir, the next topic which I will take for consideration is that of the powers of the Governor *vis-a-vis* his Executive. The present relations between the Governor and the Minister, as we all know, are defined in Section 52, sub-clause 3. That clause says that in all transferred matters—and all matters will now be transferred, none being reserved—the Governor shall be guided by the advice of his Ministers; and it adds a further proviso that if he sees sufficient cause to dissent from the advice of his Ministers he may cause action to be taken otherwise than in accordance with that advice. With all due respect to those who framed that clause, and they did it with the best intention of providing responsible Government, I cannot help saying that this clause as it now stands is a perversion of responsible government; it makes responsible government a matter of convenience, a matter which may be accepted and followed when it suits the Governor, whereas as a matter of fact what we want is that responsible government should be a matter of obligation. If responsible government means anything it means this, that in whatever action the Governor takes in any field he has the support of a Ministry which has the confidence of the House. That is a fundamental proposition which we cannot ignore. It does not of course mean that a Governor must always accept the advice of his Ministry; it leaves it open to the Governor to throw out the Ministry, to say he will not abide by their advice: but then if the Governor chooses to differ from his Ministry his obligation is not to act on his own initiative but to find some other Ministers who will support his action. So that the proposition is that at all times when the Governor takes action he takes action which is in conformity with the views of Ministers who have the confidence of the House. My submission therefore is that this clause, namely Section 52, must be so altered as to make it plain that unless specific provision is made to the contrary by statute—there may be cases which I will come to a little later—the Governor shall always act upon the advice of the Ministers.

Now Sir, I do readily agree that there may be cases in which it is necessary to provide the Governor with overriding powers, powers in respect to which he will not be obliged to follow the

advice of his Ministers but will have the right of independent action. Those cases are mentioned in paragraph 50, page 36 of Volume 2 of the Report of the Simon Commission. The first is that he should have overriding powers in order to preserve the safety and tranquillity of the Province; secondly, he should have overriding powers in order to prevent serious prejudice to one or more sections of the community as compared with other sections; and then lastly it mentions certain cases where the Governor may have fixed upon him specific responsibility as apart from the responsibility of the whole of the Executive, in which case it says that he should also have overriding powers.

With regard to these items my first submission is this, that if you are going to give the Governor power to override his Ministers to preserve the peace, safety and tranquillity of the Province, it seems to me you are taking away a very large part of responsible government in the Provinces. After all, what we are striving for is that the Provinces shall be governed in all matters, including even the peace, safety and tranquillity of the Province, by a Governor on the advice of his Ministers; and, if you reserve powers to the Governor to act contrary to their advice, it seems to me you are to a very large extent nullifying the powers of responsible government. I should not, therefore, give the Governor overriding powers in a matter of this sort, unless some way could be found whereby this large formula, which seems to me to eat up the whole situation, might be very narrowly defined.

Coming to the other question, namely prejudice to one section of the community as compared with the others, my own view is that although this is a very salutary thing my preference is that such matters as are likely prejudicially to affect the interests of any particular community should be governed by statute; it should not be left to the sweet will of the Governor. I say that for this very good reason. After all, a Governor has to keep in touch with a Cabinet which is supported by a majority in the Legislature. He can never work at cross purposes with the Cabinet; the greatest amity must prevail between them, and I am not sure the Governor would always be so minded as to quarrel with a Cabinet which represented a majority in the House merely in order to protect a minority which, in his eyes, might not be very important. Although, therefore, I agree with the underlying suggestion there, I rather prefer that the interests of the minorities should be protected in a firmer manner than is suggested, and for myself I should be prepared to delete this clause.

Regarding the other items—3, 4 and 5—I agree that in cases of this sort the Governor must have overriding powers, because they are cases where he personally is made responsible for the administration of those subjects.

Coming to the next subject, the powers of the Governor *vis-a-vis* the Legislature, I will divide my remarks under three heads. There is first of all budgetary legislation; secondly, ordinary

legislation and thirdly, emergency legislation. The Governor has to-day powers of certification with regard to the provision for reserved subjects, and that will necessarily go with the abolition of dyarchy. Secondly, the Governor has authority to authorise expenditure for the safety and tranquillity of the Province. It seems to me that if you are going to leave questions of peace and tranquillity to be settled by a responsible Ministry, the Governor should not possess this power of authorising expenditure for the safety and tranquillity of the Province. In the next place, he has the power of certifying Bills, which are of two sorts. He may certify that a particular Bill which is being discussed in the Legislature shall not be discussed because it affects the safety and tranquillity of the Province, and he has also the power to certify a Bill which is in the interests of the safety and tranquillity of the Province even though the Legislature may not desire to pass it in the ordinary course. It seems to me both these powers should go; they will not be necessary in the future constitution of India.

He has also powers of previous sanction; certain subjects have to be previously sanctioned by him before they can be discussed, and in my opinion this power should go.

Sir Ahmad Said Khan: Discriminatory legislation?

Dr. Ambedkar: That should be dealt with by Statute; I should not leave it to the Governor. The Governor must have the power of veto, and in view of the fact that there will be no Second Chamber in those Provinces which do not want it, it is very necessary that the Governor should have the power of veto. The Governor to-day has also the power of returning a Bill to the House for reconsideration. This is a very useful power which exists in the constitutions of the various Dominions, and I think it should be retained. The Governor has also power to reserve a Bill for the consideration of the Governor General, and the cases in which he should do so are defined by Statute. That is a matter, I think, which might be more conveniently considered when we consider the relations of the Provincial Governments to the Central Government, but I should like to make one observation on this subject. We should endeavour so to contrive our Provincial constitution that it will function independently, as far as possible, of the interference of the Central Government in those domains which have been transferred to its control. We must make a constitution under which there will be no occasion for constant intervention by the Central Government, either administratively or legislatively by the reservation of Bills.

With regard to the question of safeguards for Law and Order and for minorities, I have already stated that Law and Order should be transferred, but I am prepared to make one suggestion, for what it is worth. In cases of emergency, when Law and Order are being jeopardised, I suggest the Governor should have power to pass orders finally, without respect to the advice of the Ministry, regarding the posting and transfer of Police officers. I think that is very necessary; it is essential.

Sir Cowasji Jehangir: In case of emergency only?

Dr. Ambedkar: Yes, but not in other cases.

Mr. Paul: Not in normal times?

Dr. Ambedkar: Not in normal times, no, but in cases of emergency when a riot has taken place or a disturbance has occurred, it is very necessary that an impartial officer like the Governor, who is not swayed by what is happening in the Cabinet, should have the ultimate power to see that people are not transferred from one place to another to suit one community or the other community when a riot is actually proceeding. It seems to me that gives him sufficient power for the purpose of safeguarding the administration of Law and Order.

With regard to the question of minorities, it was suggested by some speakers that a Second Chamber would afford protection to minorities, and my friend Mr. Wood threw out the suggestion that I had not carefully considered the position of the Depressed Classes in relation to a Second Chamber. I should like to assure my friend that I have given the matter most careful consideration, and I thoroughly agree with my friend Mr. Paul that these Second Chambers, far from being a protection to minorities, will be really millstones round their necks.

There is one subject I did not touch on before, but which I should like briefly to mention now, namely, the relation of the Governor to his Cabinet. Should he preside over the Cabinet as a matter of right or should he not? Should there be the system which prevails in this country, where the Cabinet holds its meetings without the King being there, and if so what should be the means of communicating the results and decisions arrived at by the Cabinet to the Governor? I do not know if that arises on this item; if it does not, I will not waste time in discussing it.

Chairman: We have generally discussed the whole question, so that if you desire to continue I shall not object.

Dr. Ambedkar: In that connection I want to say one thing. The Simon Commission has suggested that a Cabinet Secretary should be appointed who would be of the same status as an I.C.S. officer, and who would act as the liaison officer of the Cabinet to the Governor. In throwing out that suggestion the Commission says it has drawn on the practice that has now become prevalent in this country, namely, that the Cabinet now always has a Secretary, which formerly it did not have. I should like to submit, however, that it is one thing to say that the Cabinet should have a Secretary, but it is a totally different thing to say that that Secretary should have access to the Governor over the heads of the Ministers. In this country the practice does exist, probably, of appointing a Secretary, but I do not think any Cabinet or Prime Minister in this country would consent to that Cabinet Secretary having access to His Majesty over the heads of the Ministers or over the head of the Prime Minister; such a thing would be intolerable. We know

that in this country the Cabinet throughout all its history has laid emphasis on the fact that the persons who will be near to His Majesty should be persons who will bear the same complexion as the Ministry, and we know that that has been carried so far that even the Ladies of the Chamber who wait upon the Queen are required to be nominated by the Prime Minister and the Cabinet. The situation suggested, therefore, seems to me almost impossible. I do not think any Cabinet which is working on the principle of joint responsibility will consent to have a Secretary of this kind attached to it.

On the other hand, if the Governor is given the power to preside over the Cabinet when it is discussing its policy, I doubt very much whether that will work, because although the Ministry may, and indeed must, communicate to the Governor the decisions at which it has arrived, I do not think the Ministry will consent to disclose to the Governor the reasons which have led it to come to those decisions. The reasons may be very particular and very delicate, and you all know that the Cabinet is very jealous not to let the Governor know the reasons why it has arrived at a particular decision. The explanation of that is that the Governor holds in his hands a tremendous power for undoing the Ministry, for he may not agree to the Ministry's advice to dissolve the House, but may instead dissolve the Ministry. That being so, it seems to me that instead of being embodied in a Statute the matter should be left to the Instrument of Instructions, which may provide that the Governor can attend if he desires to do so, but it should not be obligatory at all. On the other hand, it should be made obligatory for the Cabinet to communicate to the Governor all the recommendations at which it arrives at its meeting. That is all I desire to say on that point.

Chairman: My next speaker should have been Mr. Joshi, but he is not here. I understand that Sardar Sampuran Singh desires to make an observation on one point only.

Sardar Sampuran Singh: That is so. So far I have generally agreed with what Mr. Zafrullah Khan has said, but I rise to oppose a small suggestion he made this morning, namely, that officers of the I.C.S. should be barred from becoming Governors of Provinces. I am of opinion that nothing should be laid down either way. The only reason which he tried to give in this connection was that in some cases, or perhaps always, those I.C.S. officers would have been serving under the Ministers, and that they would be always trying to spot which of their men would become Governor, and naturally their responsibility would be affected by that consideration.

I submit that there should not be any definite rule on the subject, so that it would be very difficult to say whether an I.C.S. officer or some gentleman from outside would be the Governor. That takes away 50 per cent. of the chances of one being appointed from the I.C.S. Secondly, past experience shows us that the gentlemen who have been appointed as Governors in Provinces

where Governors are drawn from the I.C.S. have been for several years absent from the Province and serving with the Government of India. I have tried to recollect all the instances, as far as my memory goes, and I think that has been the rule in practically all cases.

Mr. Paul: No.

Sardar Sampuran Singh: I have thought of the Punjab only. Our present Governor was with the Government of India for several years, until he came as Executive Member to the Punjab, holding, that is to say, the same status as a Minister would hold. Before that there was Sir Malcolm Hailey, who had also served for several years with the Government of India, and the same applies to Sir Edward McLaghan, Sir Michael O'Dwyer and Sir D. Ibbetson; my memory does not go back further.

Moreover, it may always be difficult to find enough capable and able men to send out to the other Dominions and to India, men, that is, who would be willing to leave their country for that purpose. In addition, if we happen to have capable and able officers of the I.C.S. who have served India for many years I see no reason why they should be deprived of what may have been the ambition of their lives, namely, to be Governor in some Province. I do not think it would be fair to them to exclude them merely on the ground they had served in the I.C.S.

One drawback in the case of Governors drawn from this country would be that they would not have as much experience of India as the people who have lived there, and another defect which might show itself in some cases is that they might depend too much on their Secretariats instead of using their own personal knowledge of such matters, which naturally would be less than that of Civil Service officers.

In one sentence, what I mean to say is this. We should not, by making any definite rule on the point, deprive ourselves of the experience and knowledge of those officers who have worked so long in India.

Sir Chimanlal Setalvad: I am intervening only to deal with the new point raised this morning about I.C.S. Governors. I entirely agree with the speaker who said that the practice which now obtains in some Provinces of appointing I.C.S. officers as Governors should cease. In saying that I believe I am reflecting the opinion of a very large majority of those who are gathered round this Table. The reasons why that step should now be taken are several. One has already been referred to, but I submit that there is a much stronger reason, which is as follows: An I.C.S. officer makes a very efficient officer but this very fact of efficiency makes him to my mind unfit to be at the head of a Province as a Governor. The I.C.S. officers—I mean no disrespect to them—are so lost in admiration of efficiency and efficiency alone that they never have the larger outlook that is wanted in the Governor of a

Province. They are so imbued with Service traditions and discipline. An officer who has worked as part of a machine for 25 or 30 years before he becomes a Governor can never get out of the narrow Service outlook, and therefore we here feel it absolutely necessary—now more necessary than ever if India is to have a more democratic constitution—that this practice of putting civilians as Governors of Provinces should disappear. What you require now is a man who will bring to bear a larger outlook and come from a larger experience of public life, and for that purpose we desire that in all Provinces, as has been the case in the Presidency Provinces in the past—the Governor should be a statesman brought from public life in England and also in India. That, I submit, is one essential for the proper and successful working of the new constitution. These Service Governors ought to go. I mean thereby no reflection on the Service at all, but the Service must be purely one to carry out the policy of the Governor, and we cannot have service people laying down policy. I repeat that I am reflecting the opinion of the large majority of those not only around this Table, but of the members of the Indian Delegation present now in London.

Chairman: I think it will be admitted that we have had a fairly full discussion on Item 2, without much effort being made either on the part of the speaker or the Chairman to keep the discussion within the limits of that item. Indeed, the discussion has strayed into Items 3, 4 and 5. The discussion, so far as it has gone, has made the position fairly clear on several points, though it may be necessary to have a further discussion on some of the remaining points. May I just give you what I believe to be the general sense of the Committee on a few of the points, always keeping in mind, as I said at the beginning, that every thing we do here is provisional to the extent that it must fit into its proper place in the general scheme of any constitution.

First, there is a general opinion that dyarchy should be abolished and all subjects transferred to Ministers.

Secondly, that the official bloc in the Provincial Legislature should disappear.

Thirdly, that Ministers should be jointly responsible to the Legislature.

Fourthly, that as a general rule there should whenever possible, be a Chief Minister to facilitate the formation of a jointly responsible Executive.

Fifthly, that the representation of minorities in the Cabinet should not be made statutory.

I want you to keep in mind that eventually a Report will have to be submitted to this Committee, and therefore it will be open for us to consider how all these questions that I have read out to you are formulated in that Report. We are not finally disposing of them even so far as this Committee is concerned.

Sir Ahmad Said Khan: Can we not put the point you have just made about minorities in a rather different way?

Chairman: I have already said that this question of minorities would have to be probably the subject of discussion in a joint meeting with another Committee.

Now may I proceed to the points upon which we may have to have further discussion:—

(1) should the Governor have a discretion to appoint an official Minister to the Cabinet?

(2) should the Governor have any special power to act otherwise than on the advice of his Ministry, whether in the matter of administration, legislation or finance?

(3) should further power be vested in the Governor for use in times of emergency to enable the Government to be carried on in the event of a breakdown in the normal constitution?

There is another question that we might have a little further talk about, although it has been frequently referred to, namely, the question of Second Chambers. But possibly, if we terminated our discussion on the powers of Governors first, we might be in a better position to discuss any further question of Second Chambers. My suggestion is that we should meet this afternoon at 3 o'clock, when I hope you will be prepared for rather a long sitting. I should like to finish our discussion to-day, and then adjourn for a day or two for the preparation of a Report and afterwards call you together again.

Sir Abdul Qaiyum: There is also the question, Mr. Chairman, of the North-West Frontier Province coming within the scope of this discussion.

Chairman: I made the statement that that was going to be the subject of consideration by a special Committee, and it might even be necessary for some joint consultation between that Committee and this Committee before the subject is finally disposed of. You will have the opportunity of raising the matter at some part of our proceedings.

Sir Abdul Qaiyum: The question of the constitution should be dealt with by Sub-Committee II.

Chairman: I gave you my word that at some stage of our proceedings you would be able to raise the question. We must be in possession of all information before we come to a decision on the question.

Lord Zetland: I understood you to say, Sir, that there was general agreement that the official bloc in the Legislative Council should be done away with. It is just possible that there may be such agreement, but I did not understand that the composition of the Legislative Councils had been at this stage submitted to the sub-Committee. It was the composition of the Executives with

which the sub-Committee has been dealing. Nothing is said about the constitution and composition of the Legislative Councils. We have not discussed that.

Diwan Bahadur Ramachandra Rao: This is not involved in the abolition of the distinction between transferred and reserved subjects?

Chairman: If the question was not referred to us we are not taking any decision upon it, but I do not see how that relates to the point that the official bloc in the Provincial Legislature should disappear.

Lord Zetland: But surely that is very much to the point. If the constitution and composition of the Legislative Council has not been submitted to this Committee, how can this Committee discuss whether in that composition there should or should not be an official bloc?

Chairman: What I am trying to do is to give the sense of the subjects discussed in this Committee, and I think I am entitled to say that, generally speaking, there has been a desire to dispense with the official bloc.

Mr. Barooah: Would you not include something about the appointment of civilian Governors?

Chairman: I have allowed great latitude in the discussion, and I have put up three suggestions whereby the whole powers of Governors can be discussed this afternoon.

Diwan Bahadur Ramachandra Rao: May we say that the sense of the sub-Committee is against the appointment of officials as Ministers?

Chairman: That is a point we will keep in mind in the report we have to submit.

Mr. Fazl-ul-Huq: Did not the Committee decide that it was not desirable that minorities should not be represented in the Cabinet?

Chairman: That the representation of minorities in the Cabinet should not be made statutory.

Mr. Fazl-ul-Huq: Could we not say that while the Committee thought that it was desirable to have minority representation in the Cabinet, it could not be embodied in a statute?

Chairman: That is exactly what it means. You have to remember that what I have suggested to you are only headings, and not necessarily the exact wording which will be in the report. The report will come before the Committee.

Sir Chimanlal Setalvad: In the larger Committee when this question was under discussion it was said that these bodies should be co-extensive, and the Prime Minister said that that was what was in his mind. You cannot consider the powers of the Provincial Legislature, of course, in the same manner as the powers of the Provincial Executive.

Lord Zetland: We have not considered whether a definite number of seats in the Provincial Legislature should be reserved for Muhammadans, and other matters of that kind.

Chairman: I want to call your attention to the fact at the opening of our proceedings I pointed out that the sub-Committee could not avoid the question of the size of the Provincial Legislature and the elimination of the official bloc. I do not take responsibility for the failure on the part of the sub-Committee to discuss that question.

Lord Zetland: I accept your ruling at once.

Mr. Wood: Could it be put to this Committee that they are perfectly satisfied that we have discussed sufficiently the composition of the Legislature? There has been no discussion as to whether seats should be reserved for Muhammadans or minority communities, but if the Committee is satisfied that that has been taken into consideration, and the members have refrained from speaking upon it, we might add a statement to that effect.

Chairman: If it is the desire of the Committee to expand the number of subjects so as to include the one raised by Lord Zetland I have no objection. I have given you two points which needed further discussion, namely, the powers of Governors, and Second Chambers. If there is a desire to take the other question with regard to the composition of the Legislature, I do not mind, only it seems to me that we are going to travel over some of the ground that we have travelled in the last two sittings.

Mr. Wood: I am not suggesting any blame to the Chair, quite the contrary, because it was clearly explained to the Committee what the scope of the discussion was, and it simply means that that subject has been eliminated by the speakers.

Chairman: The fact that nothing has been said about it might be taken to indicate that there is nothing to be said.

Sir A. P. Patro: The question of the composition and representation of various communities will be dealt with fully and adequately by a separate committee. The question of the official bloc has been discussed by every member present.

Sir P. C. Mitra: I understood that we might more profitably discuss this matter after the Committee dealing with minorities has considered the matter.

Sir Abdul Qaiyum: The official bloc is in direct connection with the rights of minorities.

Chairman: I did not know that the official bloc had such a close connection with minorities. May I say that we are not ruling this out. I have stated that there would have to be some consultation with another committee. I think we should devote our time this afternoon to two questions that do belong to this Committee, the powers of Governors in the Provinces and whether you are going to have Second Chambers. We might continue the discussion on that aspect.

(The sub-Committee adjourned at 1 p.m. until 3 p.m.)

Lord Zetland: Mr. Chairman, you read out this morning, just before we adjourned, a number of subjects on which you told us that you thought the Committee were generally agreed, and I agree with you; on those subjects there is general agreement upon the Committee. You told us that there are one or two points which you thought might be discussed a little further. One was the question of the possibility of having an official minister, and the other was the question of the powers of the Governor. Sir, we have discussed these matters pretty freely and I think we know generally what the views of the Committee are upon them; it perhaps might shorten the discussion this afternoon if I point out that there is really no great difference between my view and the view of the majority of the Committee on these questions; there is some difference but not really a great difference. All I am pleading for is what Sir Robert Hamilton pleaded for this morning: a certain amount of elasticity.

Take the case of the appointment of the Ministers. I agree with the Committee that in nine cases out of ten the procedure would be this, that the Governor would invite the member of the Legislative Council who appeared to have the largest following to form a Ministry; he would discuss with that Chief Minister the composition of his Ministry; and, as I said, in nine cases out of ten I imagine that the composition of that Ministry would be elected members of the Legislative Council. The only difference between the majority of this Committee and myself is this, that I do want to retain for the Governor and his Chief Minister just that discretionary power which might in certain circumstances be really valuable. That is all I ask for; a discretionary power, that is to say, a discretionary power to go outside the elected members of the Legislative Council in the case possibly of one of his Ministers. It is quite true that I go further than the majority of the Committee do when I say that in the exercise of that discretionary power I would not exclude the possibility of an official being chosen. I myself do not think that an official would be chosen except in very exceptional circumstances, because I fully admit the force of all the arguments which have been used in the course of this discussion against such an appointment. If the Committee were prepared to leave the discretionary power with the Governor I should be quite prepared to agree that in the Instrument of Instructions to the Governor it should be laid down that the normal procedure would be the choice of a Chief Minister and the selection of Ministers from the Legislative Council chosen by the Chief Minister in consultation with the Governor. Very well, then; that appears to me on that point to be the only difference between us.

Then with regard to the Governor's powers I think it is quite clear, as one of the speakers pointed out—I think it was Dr. Ambedkar—that in items 3, 4 and 5 in which the Report of the Simon Commission suggests that the Governor should have certain reserved powers, he must have those powers. Number 5 is that he is to have powers to carry out any duties statutorily imposed

upon him. Now I ask members of this Committee: how can he obey the statute unless he has the power to do so? It is quite clear I think that if he has certain functions laid upon him by statute he must be put in a position in which he is able to discharge those functions; otherwise the thing becomes a farce. Then with regard to securing the carrying out of an order of the Secretary of State or the Government of India, if the Governor is to be in a position in which he has to carry out an order issued by the Government of India or the Secretary of State, clearly he must have the power to do so; otherwise there again it would be a farce. An example of the sort of thing that he might have to do under a provision of that kind occurs to me; there might be, let us say, trouble of some kind affecting more than one Province; the Federal Government might send down an instruction to the Governor of one of the Provinces affected to take certain action in conformity with the action being taken in another Province. I think it would be quite reasonable that the Federal Government should have the power of issuing an instruction of that kind; and there again surely unless the Governor is in a position to carry out that order it is quite useless to send any order. So that there again I think he must have a certain reserved power. I do not suggest that the power would have to be used; it is quite likely that his Ministry would be perfectly willing to carry out the wishes of the Federal Government; but supposing for any particular reason the Ministry hesitated to carry out the particular action, whatever it was, then I think the Governor would have to be in a position to order that the action should be taken. Certainly under those two heads Dr. Ambedkar and I are entirely in agreement and I think various other members of the Committee too.

Then, going back, there is number 3, to secure the fulfilment of a liability of Government in respect of expenditure non-votable. There may or may not be non-votable expenditure; I express no opinion on that; but if there does happen to be any non-votable expenditure I think it is only reasonable that the Governor should have the power in that respect of securing the fulfilment of a liability imposed upon him.

Then the other two heads which are of course rather more open to debate, are, to prevent serious prejudice to any section of the community. There again I really think the Governor in the last resort ought to have power to issue an order to protect a minority from obvious injustice if such a case arose; I do not think it is unreasonable that the Governor of a Province should have that power.

The other case is to preserve the safety and tranquillity of the Province, or, as Mr. Zafrullah Khan would rather put it I think, in the department of law and order; I think he preferred to put it in that way. There again in the last resort surely the Governor of a Province, unless he is to be a pure automaton, a pure cypher, must have power to ensure to the best of his ability the peace,

good order and tranquillity of his Province. So that I would reserve to the Governor those suggested powers. I do not contemplate that they would ever be used in the normal process of administration, and indeed I should see grave objections to the Governor stepping in normally; but these are to me particular cases which may arise, and in the last resort I think they would have to be dealt with by the Governor.

Now that is my plea; do let us have a little elasticity when you are dealing with your Governor and your Chief Minister. Sir Chimanlal Setalvad this morning, when he was arguing against the appointment of members of the Indian Civil Service as Governors, said that what was wanted in India in the future to fill the post of Governor was men either from Great Britain or from India of capacity and of broad views, of a capacity for statesmanship. Well, believe me, if you are going to tie the hands of your Governor with yards and yards of red tape, to say that he shall not do this and that he shall not do that, you are not going to get either from India or from this country men of the type suggested by Sir Chimanlal Setalvad. If you are going to lay down by statute or by rule minutely every little thing that the Governor may or may not do, you will not want a man for a Governor at all, all you need have is automaton. Really after all, we are men of the world, we have mixed with many peoples, and do not we all know that character and human personality must have some field for their display if a man of capacity is to be of any value for a country at all.

I hope it will not be necessary to continue discussing in any detail this question of the choice of the ministers or the powers of the Governor. I have put my views before the Committee as frankly as I can, and, as I have said, they amount to no more than this, that I do ask this Committee just to give some elasticity; do not try to tie up men occupying responsible positions of that kind with all these yards and yards of red tape. If I may say so, if there is one vice to which all Governments are liable it is that of getting themselves tied up in red tape. Now let us get away from that; trust the man, if he is good enough to occupy the position he will be worth trusting; if he is not to be trusted then he ought not to be there; but I do ask you to give a chance to the Crown when it is making appointments of this kind to select men who will be really fit and worthy to hold these high positions.

Sir Ahmad Said Khan: Sir, we are dealing with point No. 3 and the powers of the Governor. Before I deal with this I should like to say a few words about the suggestion made by my noble friend the Marquess of Zetland. As he knows, I made it quite clear to him in my speech that I am in favour of not making the constitution very rigid. Still I may be allowed to submit that it will be a mistake to follow this line of including an official minister. My reasons are very clear; even if you do so it will be impracticable; it will never happen; no Governor will try this experiment; no Chief Minister or Ministry will be ready to include

an official Minister. By putting this in the constitution you will make a constitution which will be looked upon by my countrymen as a retrogressive measure. Therefore if you want to give them something do not give them it with such a paint that they may dislike the very colour of it. So far as this question is concerned I will finish there.

Now coming to the special powers of the Governor, I beg to submit that I do not wish to take up the position taken by Dr. Ambedkar this morning; I think he indicated a certain suggestion and refuted it at one and the same time; for instance, he started by saying that he agreed that minorities should be protected but said that these powers should not be given to the Governor, that they should be put in the statute. Sir, if no man is going to exercise those powers how are those words of the statute going to protect minorities? Somebody would have to exercise those powers and that person should be the Governor; therefore the powers are bound to be put in the hands of the Governor; there can be no other authority to exercise them. Similarly with regard to the preservation of tranquillity and peace in the Provinces, while he disagreed with giving power to the Governor, he proposed that if there is any breach of peace the Governor should be allowed to have all the postings of the officers in his own hands. That means that he should be allowed to usurp all the functions of the Home Minister and the Home Minister for the time being would become a nonentity in the Cabinet. I think, Sir, that instead of doing this it would be much better, as was suggested by the Simon Commission and by many other gentlemen here, that these powers should be given to the Governor to interfere in these departments. As far as these two questions are concerned I know that any reservation of power in the hands of the Governor is contrary to the notion of self-government; it is difficult to reconcile the idea of autonomous Provinces on the one hand with these special powers of the Governor on the other hand; still, situated as we are, we have got to make a constitution for a country in which there are difficulties. We wish to face those difficulties and to draw up a constitution which may be suitable for that country. I should like with your permission to quote the words of a nationalist of the type of Mr. Sastri when addressing the East Indian Association about these powers of reservation of the Governor; he said this: "Though great powers are reserved for the Governor, the cases in which he may use them are carefully defined; they are: (1) In order to preserve the safety or tranquillity of the Province, or (2) in order to prevent serious prejudice to one or more sections of the community as compared with other sections. Exception may be taken to the second category of powers as being likely to create occasion for undue exercise; but it is necessary to induce a sense of contentment and security in the minority communities and we must bring ourselves to acquiesce in it." When a nationalist of Mr. Sastri's type is willing to agree to it I do not think that any of us should have any objection to those powers being given to the Governor.

Sir, now the question is whether those powers should be given to the Governor or should be shared by his Government. My reply is that these powers should be given only to the Governor and not to the Executive of his Government. The reasons are very clear. First of all it will be when the Governor wishes to override his Cabinet that he will have to use these powers, and therefore the Cabinet cannot possibly share those powers with the Governor. Secondly, any such special powers, if given to the Ministers, would be quite inconsistent with their responsibility to the House. For these reasons I am definitely of opinion that these powers should be given only to the Governor and not to the Government. May I also speak on Nos. 4 and 5.

Chairman: You see I gave three points which we might discuss: should the Governor have a discretion to appoint an official amongst the Cabinet; should the Governor have any special power to act otherwise than on the advice of his Ministry, whether in the matter of administration, legislation or finance; should further power be vested in the Governor for use in times of emergency. Now I am quite prepared to take the points one by one or to take the three points together. I do not think there is a wide difference between us on any of them. I should rather like to hear what you have to say on any of the three points and then I will try later on to collect the general sense of the Committee. But I agree with the Marquess of Zetland: I do not think there is very much between us.

Sir Ahmad Said Khan: I come to point No. 5, that in the case of breakdown what powers should be given the Governor. I entirely agree that full powers should be given to the Governor if there is a breakdown of the constitution, and those powers should be shared by his Executive also. I wish here to make it clear that while in the case of a breakdown I am of opinion that these exceptional powers should be shared by his Cabinet also, I feel that when he is going to override in interests of minorities or for the preservation of law and order, in normal conditions these powers should not be shared by his Cabinet. When there is a breakdown the whole Government will work together and therefore these powers should be shared by the whole Government.

It is very very difficult to reply to the last two points. The question is what are the requisite conditions under which it can be declared that normal conditions are not prevailing and that the constitution has come to an end.

I think it is very difficult to foresee all those conditions. Still I must say that such conditions may be created in spite of all we may do. Such conditions may arise, for example, if there is a Province where it is impossible to get a Council elected or where, if a Council is elected, it refuses to have a Ministry. If there is no Ministry I think one can say the constitution is not working, and the Governor will have to use his abnormal powers to carry on the Government.

All these abnormal powers of the Governor should be well defined and perfectly definite. I do not wish him to use them whenever he likes; in normal circumstances he should always act according to the advice of his Cabinet and he should be a constitutional Governor. These powers are for use only in certain conditions, and those conditions should be well defined, to make it quite clear that the powers of the Governor may be used in those conditions and in no others.

Mr. Chintamani: I am indebted to the noble Marquess for the very clear exposition he has given of the point of view from which he put forward his proposal that the law should be elastic and should allow the Governor discretion which will be adequate enough for him to act in difficult and delicate situations, and that he should be endowed with powers requisite for the discharge of his responsibilities. With the latter part of that proposition no sane man can have any quarrel; none will say that you should impose on any individual duties and responsibilities without at the same time conferring upon him the powers without which those duties and responsibilities cannot be discharged.

Applying this proposition to the case under discussion, I should like to know what are those duties and responsibilities which you would cast on the Governor for the performance of which you do not propose to endow him with the requisite powers. The basis of discussion of this subject, from our point of view, is that the Government should be a constitutional or responsible Government and that it should be presided over and have at its head a constitutional Governor. In various parts of the Dominions there are constitutional Governments presided over by Governors, and you will not have to invest the Indian Governors of the future with any more powers or with any more responsibilities than those with which you endow Dominion Governors.

There should be, however, one important exception. That exception I referred to in my remarks yesterday morning, namely, that in the Instrument of Instructions to the Governor we should have no objection to the insertion of a clause providing that he should see that no injustice was done to any minority community, and that the minorities should receive fair and equitable treatment. If in that respect the Governor takes a view which is not the view of his responsible Ministers, and if, therefore, in pursuance of the obligation cast on him by the Instrument of Instructions he gives advice to his Ministers as to a particular action to be taken or to be avoided, and if the Ministers do not accept that advice, the Governor will have the power which every constitutional Governor has of seeking for other Ministers who will be more amenable to the advice he gives in this particular regard, where a special responsibility has been placed on him.

Similarly, when in the course of day to day administration a subject or a situation arises which in the opinion of the Governor is of more than ordinary importance, and which, therefore, makes it his duty not to follow the advice of his Ministers if he disagrees

with it, but to insist on different action being taken, there again the constitutional remedy will always be open to him of accepting the resignation of those Ministers and appointing others who will be more in accord with his views.

Going a step further and assuming the difference between the Governor and those members of the Legislative Council who may be expected to be in a position to form a Government is, on that matter which the Governor regards as of such importance, so fundamental that he cannot get Ministers, the other constitutional remedy will be open to him and he can dissolve the Legislature and order a fresh election to take place. If after the general election he still finds there is no available man for the office of Minister who will take his view of the matter, it must follow in any constitutional system that the Governor must accept the advice of those who come with a fresh mandate from the electorate.

If you do not make these assumptions, and proceed to build your constitution on them, you may as well abandon the idea of endowing any Indian Province with constitutional or responsible Government. If you think of extreme possibilities which may occur once in a generation, and seek to provide safeguards or reservations or remedies for them, you run the risk of placing in the hands of Governors with an autocratic habit of mind the power, in emergency situations which may be provoking to them, to take action which cannot be justified on any ground of constitutional propriety or public expediency.

We must proceed on the assumption, in seeking to build up a scheme of reform, that the people for whose benefit that scheme is intended will act as men of commonsense and responsibility, and that they will know their own wellbeing and will not create situations fatal to their own development.

If I am told in reply that the history of the Governments of more Provinces than one in British India in recent years belies this assumption that you can trust the people to exercise enough commonsense and responsibility, I would say the objection is invalid on the ground of the peculiar nature of the present constitution, on the ground that the present constitution, taken as a whole, may without violence to language be described as an unconstitutional constitution, and the difficulties which this constitution has produced are not difficulties which you need anticipate when you have a straightforward constitution which creates a system of responsible Government. I would venture again to repeat the warning uttered by a Provincial Governor, Sir Harcourt Butler, when he said reform must not be afraid of itself.

The noble Marquess raised another point when he said there would have to be non-votable items, and if the Legislature refused to grant the money what was the Governor to do. The one comprehensive answer to that and to all cognate questions is this. If the Ministers refuse to act in the manner expected of responsible

men, the Ministers will have to surrender their jobs; if the Legislature acts and persists in acting in contumacious and irresponsible ways, the Governor must dissolve the Legislature and hold a fresh election. These are the constitutional remedies for constitutional difficulties in a constitutional system of government.

The third point raised by the noble Marquess was that the Governor might receive orders or instructions from the Secretary of State or from the Governor-General in Council, and how was he to carry out those orders received from official superiors unless he was endowed with special authority therefor. My answer is this. If the Provincial Government is to be a unitary responsible Government, the Governor will not have to receive any orders from any external authority such as the Governor-General in Council or the Secretary of State so far as the region of Provincial Government is concerned. He can only receive orders and instructions with reference to matters which are not within the province of the responsible Provincial Government; so far as those orders go the Provincial Government will not have anything to do with them; they will be matters of a different nature which cannot be solved in this Sub-Committee.

If there are Central or Federal subjects which are placed under the control of the Central or Federal Government and Legislature, but subjects which are administered through the agency of the Provincial Governor for purposes of administrative convenience or financial economy, then the Central or Federal Government which makes the Provincial Governor its agent specifically for those purposes will see he is given the requisite staff, the requisite funds, and the requisite powers to perform his duties as its agent in an adequate manner. He will not come into conflict on any point with his responsible Government.

The noble Marquess pleads that all he wants is a certain elasticity, a certain discretion for the Governor. If the Governor is allowed at times to appoint an official as Minister, you may be certain, the noble Marquess said, that he will not proceed post haste to exercise that discretionary power, but will do so only in an emergency when he thinks he has no other option. I submit this is not a reasonable view of elasticity for the noble Marquess to take, if you proceed on the assumption that you are building up a system of responsible government in the Provinces. Suppose in this country an emergency arose when it appeared to wise men that the ordinary constitutional system should be suspended and that an emergency Government should be created. Is there any provision by which you are governed which would enable anyone here to suspend Parliament or to suspend Cabinet Government? When the emergency occurred, you proceeded to construct a Cabinet of five. But in a Provincial Government such situations are not likely to arise. We are not dealing with the Central, National Government but only with a Provincial Government, the whole of the problems under the purview of which will be of a domestic nature.

I think one comprehensive answer can be given to all the questions which are treated in items 3, 4 and 5 of this paper, namely, that the Governor should be considered to be a constitutional Governor at the head of a responsible Government, and that with the single exception of an instruction to him in the Instrument of Instructions with regard to minority communities, he should be treated as constitutional Governors are treated in Dominions which have constitutional Governments.

Dr. Shafa'at Ahmad Khan: I am under a considerable handicap to-day, because I did not follow the debate yesterday; but I should like to deal with two points which have been raised by the noble Marquess. The first point concerns the question of an official Minister, and the second the question of the powers of the Governor.

So far as the question of an official Minister is concerned, opinion in India, and I think here too, is that he would be a fifth wheel in the coach. I am convinced that if an official Minister is taken into the Ministry it will place the Ministry in a very awkward position. Either the official will be brought in with the consent or at the desire of the Chief Minister, or he will not. Taking the first alternative, let us suppose that the Chief Minister consents to the inclusion or the admission of an official Minister. If the Chief Minister says to the Governor "Your Excellency, I have no objection at all", it will show that the Chief Minister is not really equal to his job; he cannot carry on the work and is incapable of carrying on the administration on a very high standard. The best thing, therefore, would be for him to give way to another Chief Minister, in order that the Government which his successor may form may inspire confidence.

If, on the other hand, the official Minister is brought in against the advice of the Chief Minister, several very serious complications will arise. The mere fact that the official Minister is there will cause all the non-official members of the Council to make a dead set against him. When he appears in the Council on the Treasury Bench the whole Council will be virtually united against him, because he is an official Minister and has been taken against the wishes of the Chief Minister. That is a very important consideration which has to be borne in mind when the possibility of appointing an official Minister is advocated. I can say from an experience of seven years in a local Legislature that a number of the measures proposed in that local Legislature are opposed simply and solely because they proceed from what is called the reserved side. If any measure comes up from the reserved side it is suspected by the transferred side. The Ministers may not oppose it openly, but they sometimes oppose it secretly because it emanates from the reserved side. If, on the other hand, you have an official Minister, in that case the opposition will be greater, more intense and keener, because in that case the official Minister will be the target of attack not only by the Chief Minister but by practically every non-official member of the House. That is a very important consideration which has to be borne in mind.

I now come to the powers of the Governor. In discussing the powers of the Governor two or three important factors must be kept in view. In the first place a distinction must be made between two different capacities in which the Governor may exercise his powers. When a Governor comes to a Province he has a dual function to perform. In the first place, he acts as the agent of the Imperial Government; in the second place, he is the head of the local Government. These two functions are quite clearly understood in all the Dominions, as far as I know. Insofar as the Governor is the agent of the Imperial Government, he must carry out and is obliged to carry out all the duties and obligations and responsibilities which the Secretary of State for the Colonies or the Secretary of State for India may impose on him, or which may be imposed on him by the Statute. That is absolutely clear. As head of the local Government he has also certain duties which he will be called on to perform.

I will deal with his duties as agent of the Imperial Government. His duties as agent of the Imperial Government consist not merely in performing social functions and doing the routine work of attending cricket matches and so on; they consist also in obeying the Despatches of the Secretary of State for India or the Secretary of State for the Colonies. This is also perfectly clear. When he receives his letters patent he also receives instructions under the Signet, and those instructions he must obey, besides obeying the instructions which he receives frequently from the Secretary of State for the Colonies. He is bound to obey, therefore, not only the instructions he gets when he is appointed but also the instructions which he frequently receives from the Secretary of State for the Colonies; and, because several Governors have not obeyed those Despatches of the Secretary of State for the Colonies, several of them have been recalled. We do not really dispose of this subject, therefore, by saying that the Governor should have the same powers as are possessed by a constitutional Governor.

What are those powers? We ought to know them. The constitutional Governor has certainly got more powers than the previous speaker has really indicated. I will divide those powers into three categories. In the first place, he must have all the powers which a Dominion Governor is expected to exercise and does normally exercise, and those powers include the Statutes of the Imperial Government, all the duties imposed on the Imperial Government by international treaties or by other conventions entered into by the British Government with other Foreign Government. All these must be carried out through the Government of India by the local Government. That is one thing. Secondly, besides the international obligations he must carry out the orders of the Secretary of State whatever they may be. Of course, they will be very restricted.

I come now to the powers of the Governor and his duties in respect to local Government. First we have the safety and security of the Province. This is included in the present instructions to

Governors, and the proposal is that similar words, " safety and tranquillity " shall be embodied in a statute. I believe that the Governor must have a reserved power of this kind in emergencies. A Governor will think twice before he cuts across the wishes of his Ministry, and, on the other hand, he will not take steps lightly to alienate public sympathy. What we have to fear is not too much action by the Governor, but too little.

In the second place there is the question of safeguards for minorities. This sub-Committee has not to deal with the nature or form of the safeguards, but with the method by which those safeguards are to be enforced. I can say that on these points it is perfectly clear that safeguards must be enunciated in the statute. The principles must be there; if they are not there the Governor cannot be expected to try to carry them out. It is placing too heavy a responsibility upon him. Not to put them there would be to reduce the whole thing to a farce. In the Government of India Act, Section 67 (2) we read, " It shall not be lawful without the previous sanction of the Governor-General to introduce at any meeting any measure affecting . . . the religious life and usages of any class of British subjects in India." All that has to be done is simply to adapt this phraseology, so as to make it unlawful to introduce any Bill dealing with these fundamental rights without the previous consent of the Governor. If the Governor stated that the objection was frivolous, in that case the Bill must proceed. The machinery I suggest is perfectly easy. This Section can be modified and applied to the Provincial Legislature. It has been tested in practice and found to work very successfully indeed.

Then it was suggested that the Governor should have power regarding financial stability. I entirely agree. It is one of the duties which should be imposed upon the Governor to maintain the financial stability of the Province. There are numerous instances of Governors of Dominions being called upon by Statute to see to it that no financial irregularity occurs. That power should be extended.

The next point is concerned with the power of the Governor in emergencies. Very few will disagree on this point. Supposing the constitution breaks down, and there is no Ministry capable of carrying on the Government, in that case the Governor will be justified in dissolving the Legislature, dismissing the Ministry and running the Government himself until a new Ministry can be appointed. The method suggested by Mr. Chintamani will not be practicable; he suggested that in certain questions, for instance, law and order, the Governor should do nothing. All he need do is to dissolve the Legislature and later on to entrust the work to a Chief Minister. The time he would take in doing this could not be less than a month. What will happen during the interval when he goes through all the formalities of dismissing the Legislature, dismissing the Ministry and forming a new Ministry? There would be anarchy throughout the Province. Anybody who has

had any practical experience of administration will see that it is thoroughly impracticable to suggest this tedious process.

Mr. Jadhav: On the third item of the Agenda, as to whether special powers should be exercised by the Governor, Lord Zetland has stated that the Governor should not be reduced to the position of an automaton. I perfectly agree with him. But when it is stated here that the Governor should be a constitutional Governor it does not mean that he should be such from January 1st, 1932, or from whatever date the new Government of India may come into operation. There will be a period of transition, and I assure the noble Marquess that in that period the Chief Minister and his colleagues will have very often to go to the Governor for advice, especially on constitutional matters. I have had the privilege of knowing intimately the three last Governors of Bombay, and have on many occasions consulted them as to what the constitutional position was, and what under such circumstances would be done by the Parliament or the Government of England. This recourse would be of immense use in carrying out the new constitution which will be mostly on the British model. If the Governor was taken from the I.C.S., and had no experience of political life in England, the recourse would not be of the same value. But a Governor taken from the public life in England would not be used to the position of an automaton. He would have to give advice and guidance to the Ministers working under his eye, and therefore I do not think there would be any difficulty in finding men of experience and also of self-respect accepting the position of Governor in any Indian Province. It is certain that the Governor should be vested with special powers which are necessary, and that these should be exercised by him and not by the Executive. The time for exercising these special powers will be when the Ministers have failed in their duty, and the situation is left to the Governor to deal with.

With regard to the fourth point in the Agenda, as to how the Governor should obtain advice necessary for the exercise of his special powers, I do not think that special machinery need be created for providing advice to the Governor. The Governor will, I think, exercise his ingenuity or the means at his command in gaining the necessary information. I do not think there should be any provision made to supply him with advice, nor do I agree with the proposal made by the Simon Commission for the creation of sinecures in the shape of Ministers without portfolios.

With regard to the fifth point on the Agenda, as to provision to enable the Government to be carried on in the event of a breakdown in the normal constitution, what is meant by a breakdown? By that is meant that the constituted Ministers are not in a position to carry on efficiently, and in that case the Governor will be the best judge as to what he should do, whether he should dismiss the Ministry and constitute another or dissolve the Legislature and order a fresh election, or take on the administration himself. That is a question which should be left to the decision

of the Governor himself. I do not think it will be right for us to make provision with regard to each of these points.

As to what emergency powers should be given to the Governor and to the Executive, I do not think it necessary to define them. That question has been sufficiently dealt with in the various reports before us. As to the conditions requisite for the exercise of those powers, and under what safeguards they should be exercised, I do not think that any elaborate rules should be formed for the guidance of the Governor, because different conditions may arise in different Provinces, and any set of principles may not be suitable for general application, and ultimately the Governor will have to fall back upon his own ingenuity. I think that the amendment of the Government of India Act should not be too frequently called for, and as we are now framing a constitution which will make India a self-governing Dominion, provision should be made in this amendment of the Government of India Act, that the advancement and evolution of the constitutional progress of India is clearly and completely set out in such a way that there will not be any need for change afterwards. Any changes required from time to time as India advances should be put down in the Instruments of Instructions. For this reason I do not agree with the last speaker that everything should be put into a statute, including the provisions for the protection of minorities. This would mean that India would not be a self-governing Dominion for a very long time to come, at all events not until those conditions laid down in the statute had become a dead letter. For that reason I would not desire that these provisions should be embodied in a Government of India Act, but in the instructions or rules issued from time to time it would be possible to make effective such changes as might prove to be necessary. In that way the working of the Government of India Act would not be impeded.

Sir Cowasji Jehangir: Sir, the points have now been narrowed down by the speech just made by Lord Zetland. He still suggests that the Chief Minister or the Governor should have the option of having a minister from outside the Council. May I point out that he does not now insist or he never did believe that it would be necessary in every case, but he just wants to give that option to the Governor. May I point out that even if the Governor or the Chief Minister never took advantage of this provision, we must consider what the effect of such a provision will be just now upon public opinion in India. I would bring this point to the attention of Lord Zetland and the other Delegates. Take it for granted that that provision is never made use of, take it for granted that Lord Zetland does not intend that it should be made use of, may I most respectfully point out that such a provision in the Act will have the effect of damning any legislation that may go through.

Lord Zetland: May I just point out that I do not want to insert a clause of that kind in the Act; what I want to avoid is

laying down quite definitely, either in the Act or in rules, that the Governor shall not have the discretion. I do not want it mentioned at all.

Sir Cowasji Jehangir: The unfortunate thing is that in the Simon Commission's Report this suggestion was made and if you do not now provide for such a contingency in the Act itself it will immediately be said that you are handing over these powers to a Governor and a Chief Minister, that is to say the power of appointing one or more officials to the Government, and a contingency may arise when a Governor may take advantage of it. Therefore, Sir, I most respectfully beg that this suggestion should be given up in view of the practically unanimous opinion of the Delegates, taking everything for granted, that what Lord Zetland said is correct, that it will not be taken advantage of. If that is so the point is so narrow and public opinion is so strong in India, that, rather than have strong criticism against any legislation that may go through in this respect, I would respectfully ask that it should be left out.

Then again, his explanation as to the position of the Chief Minister was perfectly logical. We hope and trust that the Governor will in each case ask for the assistance of a Chief Minister in the formation of his Government. It can only be mentioned in the Instrument of Instructions; such things are never or very seldom mentioned in a statute. It was always my intention to leave it free in the Instrument of Instructions; but it must be very definitely laid down that in every case the Governor shall appoint the Chief Minister and shall approve or disapprove of the names submitted except perhaps—and I am not prepared to admit this just now—in certain very exceptional cases. This goes to the very foundation of self-government, the Government appointing the Ministry with the advice of prominent members of the Council. The suggestion is the very negation of self-government. It has been admitted on all sides here that joint responsibility is an absolute necessity; it is a *sine qua non* so much so that Mr. Ambedkar suggested that that should be the only point which should be made a statutory provision. If that is so, may I respectfully again point out that giving the power to the Governor to appoint his ministers is not consistent with joint responsibility. There are several groups; the Governor picks out the best men from each group; he calls one or two prominent members and says: "Now work together jointly." Would not the other method be far better, that the Chief Minister should go round and choose the men who he thinks will work with joint responsibility, submit the names to the Governor, then let the Governor say that for certain reasons so and so might be left out or so and so might be included. If the Governor did not approve of that list finally or if the Chief Minister would not accept the advice of the Governor, the Governor would have the opportunity of choosing another man to form the Ministry.

Lord Zetland: That expresses my views beautifully.

Sir Cowasji Jehangir: Then why not have it laid down definitely that that shall be the principle? Why leave it open? Why say that in certain cases that shall not be the rule? That is what is doing the damage so far as Indian public opinion is concerned. I have read in the Indian Press many criticisms of these suggestions. It is these little things that cause the trouble. They may be little things; we know that if worked properly it means nothing except that you let it be flexible; but you start with the prejudice. That was the trouble with dyarchy and it ultimately accumulated. Do not start with a prejudice; say clearly that you mean that there shall be a Chief Minister; the Governor may disapprove of a name or two and may call for another Chief Minister; lay that down as a principle in the Instrument of Instructions. The difference being so small ultimately, do not let us start with the prejudice of the Indian public.

Lord Zetland said that if you do not give any powers to the Governor he will be a cypher. Well, Sir, what is the Governor expected to be? In short, he is expected to be a guide, philospher and friend of the ministry, a man there from whom advice is available; a man of experience of public life in England who is ready to give his ministry advice, but who has not the power of insisting that that advice shall be taken. Believe me, the Governor will be more powerful; the Governor will be a greater instrument for good to the country in that position than if you give him powers of over-ruling or over-riding his ministry. Situated as we are to-day in India, the advice of an Englishman is most welcome, but when that Englishman has the power of forcing that advice down the throats of unwilling people, it is not only resented but the advice is not taken. That is the position; the Governor will be in a more influential position provided the responsibility is not on his shoulders.

Chairman: But does anybody propose to give him the power which you are referring to—to push it down their throats?

Sir Cowasji Jehangir: Yes, all these over-riding powers that are suggested.

Chairman: I thought we were trying to turn over a new leaf.

Sir Cowasji Jehangir: Yes, that is what we are trying our utmost to do, Sir, and we hope we shall do it. As to these over-riding powers mentioned in the Report of the Simon Commission, 3, 4 and 5 are mere truisms. Undoubtedly if there is any statutory provision laying upon the Governor any responsibilities you must give him the power to carry out those responsibilities; that is a truism, but the point is what are the statutory responsibilities which you are going to put on his shoulders? I should say very little and I will give my reason afterwards. No. 4 is to secure the carrying out of an order of the Secretary of State or the Government of India. Naturally that is another truism; if in the Statute the Secretary of State has the power of laying down a policy, the Governor must have the power to carry out that policy.

But the point is: What power are you going to give to the Secretary of State? The third is also a truism; if you are going to have non-votable items, naturally the Governor must have the power of putting his hands in the Treasury and paying out those amounts; they will be a first charge on the Revenues. All non-votable items are at present a first charge on the Revenues; they will remain so. It would be unconstitutional not to pay a non-votable grant; it would be *ultra-vires*. It is a first charge and that is a truism.

Then we come to No. 2, on which there is a difference of opinion; that is to prevent serious prejudice to any section of the community. I would leave that alone for the present until the Minorities Committee has reported. Whatever responsibility is placed upon the shoulders of the Governor with regard to minorities he must have the power of carrying out those responsibilities.

No. 1 is to secure the safety and tranquillity of the Province. There I quite agree the Governor must have emergency powers, and if No. 1 means emergency powers, I have no objection. But what does it mean? That is what we want to know. What does it mean when it says: "to preserve the safety and tranquillity of the Province?" There are two circumstances under which I consider emergency powers at present are necessary and I think the Governor must be left to be the judge. The first is where no Council is in existence, and no ministry under certain circumstances. Certainly the Governor must carry on the Government. Secondly, which is much more serious, when there is such a disturbance in a Province or in any part of a Province and that a disturbance continues for a length of time notwithstanding every effort of the Ministry, when public opinion gets so strong that something more effective should be done, when Government is paralysed on account of that trouble, communal or otherwise; then certainly the Governor must step in.

Mr. K. T. Paul: What can he do?

Sir Cowasji Jehangir: The assistance of the Federal Government must be asked for; the Governor must intercede and establish government again. These are cases of emergency and I would be the first to say the Governor must be given those emergency powers; under all circumstances he must be given those emergency powers and he must be the judge of when that emergency had arisen. If a Governor does not use his discretion properly and uses those emergency powers when his Ministry is still able to cope with the situation, then public opinion will be so strong I believe in the future that that Governor will no longer be able to remain a Governor. I have no reason to believe that the men who will be Governors in the future will not use that discretion in a manner in which it is intended to be used, provided it is clearly defined that it is only in the case of emergency that the Governor should interfere. I will only give two instances. The Simon Commission has also pointed out the very difficult position in which Governors will be placed in the future in India and in a few lines upon which

I cannot lay my hands immediately it has shown some hesitation, it wonders whether those men will be forthcoming to take up all these responsibilities. That doubt is well founded and it is our object to lessen those responsibilities as far as possible. We must not make it necessary to have supermen as Governors of Provinces; we can only expect to get good men; we cannot expect to get supermen. Unless you take all this responsibility off their shoulders, which so many people are anxious to thrust on their shoulders, you will require supermen to be Governors of Provinces. I do not expect to have supermen to be Governors of Provinces; I only expect to have good men and men with experience. Therefore, I would must respectfully urge that you do not place all these responsibilities on the shoulders of a Governor; let him be a guide, philosopher and friend, but not a dictator.

(The Committee adjourned for a quarter of an hour.)

Diwan Bahadur Ramachandra Rao: Sir, there are three questions which have been under discussion this afternoon. Lord Zetland has revived the discussion in regard to official ministers. I regret to say that with all respect to him, and after hearing everything that has been said in favour of the proposal, I still feel that the entertainment of an official minister would constitute a serious inroad on the principle of responsibility which it is proposed to confer on the ministers. I have already pointed out on a previous occasion that even the partly official local Governments as they now are, are for the most part against the introduction of a minister who is not responsible to a constituency. The Government of Bombay point out that it will create the anomaly of there being in a Cabinet jointly responsible to a Legislature persons who will not be drawn from it and who will not represent the choice of the Legislature; they will not have any party or following in the Council on whom they could depend for carrying out their policy; though in theory responsible to the Legislature, they will not be removable by it, and, being appointed by the Governor, will naturally look to him for support. Now, Sir, that is conclusive; in effect we shall be introducing into the Executive a person who is not responsible to anyone but the Governor. That is fundamental. If you wish to have joint Cabinet responsibility for the administration of the Province it is far better not to have an official Minister. The only reason put forward by Lord Zetland was that there may be circumstances in which as between the conflicting communities in India it may be possible to entrust the portfolio of Law and Order to a person who is not connected with any community. As I have already pointed out, and as several of my friends have already stated, if the communities have no confidence in each other, they must learn to work together and to trust each other. As has been pointed out, in many of the Provinces Indians have already been discharging these duties. In those circumstances absolutely no reason has been assigned for infringing the principle because of the possible contingency of an official minister being required in some Pro-

vince at some future time. It seems to me that there are no compelling circumstances which should induce us at present to agree to the introduction of an official minister.

As regards the overriding powers of the Governor, there seems to be some slight confusion. The Simon Commission have definitely taken the stand that as far as possible there must be a break with the existing system, which allows the Governor to do more or less what he likes and to override his Ministers in any matter in the whole field of administrative responsibility. In para. 53 they say: " It is this which we have more than once referred to as the ' blurring ' of responsibility. Self-government in the provinces can only become a reality when the Governor does not come in like a *deus ex machina* to make the wheels go round. The principle which we think ought to be insisted upon is that as long as the normal processes of responsible government are being pursued, the responsibility which properly attaches to government should be jointly borne by those who have the honour and the care of office. We are bound to make the provisions in para. 50 for the critical cases which may arise when the rights of minorities are put in jeopardy, or the peace and security of the province are put in serious peril, as well as for cases where vital interests not limited to the province are involved. But subject to this, responsibility in the face of the provincial legislature should rest where it constitutionally lies, as long as normal constitutional government is being carried on."

This is the position taken up by the Simon Commission, and their recommendations are intended to break with the existing practice of allowing the Governor to do what he likes in any sphere of government entrusted to the Ministers. The Commission reduce the cases where the Governor should have power of intervention and of overriding the views of his Ministers to five, and these five cases are expressly set out in para. 50 of the Report of the Simon Commission. The question we have to consider is whether we should accept these cases as cases where the Governor should have some power to override the decisions of the Ministers.

In regard to these five cases, the first one mentioned is: " In order to preserve the safety and tranquillity of the Province," I submit that these words " the safety and tranquillity of the Province " are too general and are too comprehensive. In one place the Simon Commission has expressly ruled that responsibility should lie normally with the Minister, yet they give power to the Governor under these comprehensive words to override the decisions of the Cabinet and to prescribe measures over the head of the administration. I submit many cases may arise in the normal course of administration where this provision could be invoked, and I submit that the Governor should not have the power to intervene in this way in the normal course of administration in any Province, but should have it only in the case of a state of emergency, such as is referred to in the Report of the Simon Commission. Otherwise we shall impinge on the responsibility of the Minister, and we shall be inviting the Governor to

shoulder that responsibility, which ought to be on the shoulders of the Ministers.

I should also like to draw the attention of the sub-Committee to the fact that in these five cases the Governor would be subject to the superintendence, direction and control of the Governor-General. The result of that is that in regard to matters which are described as falling under the safety and tranquillity of the Province it is not only the Governor but the Governor-General who may intervene in the affairs of the Province and in this way override the decisions of the Ministers.

On these broad grounds I submit that the only case in which the Governor should have any special powers should be in the circumstances described as constituting a state of emergency, and which are these: " We recommend that the Governor . . . should be given statutory powers to declare that a state of affairs has arisen under which the government of the province cannot be carried on in accordance with the provisions of the Statute, and thereupon there should vest in the Governor all the powers normally possessed by the Governor and his Cabinet, with the right to appoint any persons to assist him and to delegate powers to them, and the right to nominate any such persons as members of the Legislature. The Governor would have further powers to restore rejected demands for grants, and to certify legislation if in his opinion it is essential for any interest in the province—a power which it will be observed is wider than his normal powers set out in para. 50 above. It should be provided that the reasons for declaring that such a state of affairs exists should be reported at once to Parliament, and that these special powers should not remain in operation for more than twelve months without the approval of Parliament expressed by resolution of both Houses."

It is these powers that it may be necessary for the Governor to possess, where the machinery of Government breaks down, where the Legislature refuses to function and where there are no Ministers to take charge of the administration. It may be that in those circumstances the special powers mentioned in the paragraph I have quoted should be given to the Governor, but I think that in no circumstances other than that should the responsibility of the Ministers be reduced. They should certainly learn to face the music and not to call on the Governor to shoulder their responsibility which lies on them as Ministers. That is, I submit, the true position; it is only to meet a state of emergency that the Governor should have these powers. In other circumstances the Ministers should act normally and the Governor should be bound to act on their advice.

Sir Ghulam Hussain Hidayatullah: I will not take more than five minutes. I agree with my friend Sir Cowasji Jehangir that no Minister who is not an elected member of the Legislative Council will be acceptable to the country, but I join issue with him when he says it should be obligatory on the Governor in all circumstances to have a Chief Minister. I do not think the

Governor's discretion should be tied down in that way. There will be circumstances under which he may not be able to find a man who can command the confidence of a very large section of the House.

My friend Mr. Chintamani said we ought to have a constitutional Governor, whose powers would be restricted to dismissing Ministers and dissolving the Council. He did not like to give the Governor any other powers; he seems to imagine that in India ideal circumstances exist, that there are no differences of class and creed, and that we have disciplined parties in that country!

With regard to the powers proposed for the safety and tranquillity of the Province, that point has already been dealt with by my friend Dr. Shafa'at Ahmad Khan. If the tranquillity and safety of the Province is in danger, the Governor, it is said, must dissolve the Council. It will take some time before new elections take place and a new Council is formed, and in the meantime the disaster may be complete.

With regard to the protection of minorities, Mr. Chintamani suggested that instructions should be given to the Governor in the Instrument of Instructions to see that no injustice was done to the minority communities. If the Governor gives that advice and he is not listened to, what is he to do? He will be helpless. We have Provinces where one community predominates over the other. In that case almost the same Ministers will be returned and will form the Ministry, and no other community can form a Ministry. What will be the position of the Governor then? He ought to be provided with certain overriding powers.

On the third point, expenditure, let us suppose that we have financial difficulties in all the Provinces. The Council may, for example, cut down the salaries not of future recruits but of the existing servants. What will happen if the Council does cut them down?

Sir Cowasji Jehangir: What sort of servants?

Sir Ghulam Hussain Hidayatullah: All-India servants. They will continue for some time; you cannot send them away now, at once, and until they retire their position must be safeguarded. What will be the position of the Governor? He cannot restore the amount.

Sir Cowasji Jehangir: It will be non-voted.

Sir Ghulam Hussain Hidayatullah: Suppose the local Legislature makes an inroad on the administration of Central subjects; the Governor will be helpless. If the Council interferes in a matter which, in the opinion of the Governor-General, essentially affects the interests of any other part of India the Governor will be helpless unless we give him specified powers.

With regard to emergency powers, I am in favour of them in the form in which they are recommended by the Simon Commission.

Sir A. P. Patro: I propose to speak only on the powers of the Governor in relation to the Executive and the Legislature. We

have all been talking more or less at random and without reference to any particular powers that are now exercised by the Governors. The powers exercised by the Governor relate to administrative, financial and legislative matters. In regard to the exercise of the powers that are now vested in him under the Government of India Act, we have to find, from our experience and knowledge of what has happened during the last ten years, whether there has been any abuse of the powers that are now vested in the Governors in the various Provinces. If these powers that are now vested are abused or are not carried out properly, then we have to examine the position and see what are the powers that should be curtailed or taken away.

In the present circumstances of the country where we have got reserved and transferred subjects certain powers are vested in the Governor, but this distinction between reserved and transferred will disappear, and therefore the powers of the Governor must necessarily be altered.

With regard to the administrative powers of the Governor, I think the Statutory Commission has very carefully considered the altered position of the country, and has made suggestions in paragraphs 52 and 53 which are very sound, and which should in my view be adopted, because they form the basis of the conclusions with regard to provincial autonomy. The only criticism which has been made of them is one made by my friend Dr. Ambedkar with regard to communal matters; but I should like respectfully to say that I do not agree with his criticism of that matter otherwise every one of the speakers here has agreed that this should be the basis of the powers of interference by the Governor in administrative matters. My friend Mr. Ramachandra Rao read out paragraph 53, and here we have a very careful survey of the existing situation and of the new powers which will be vested in the Legislative Councils. The Statutory Commission has made its suggestions, and I do not think anyone has seriously challenged the correctness of the suggestions made in paragraph 50 of its Report.

With regard to the financial powers, to-day certain powers are conveyed in the Statute under Sections 64 and 74 D. With regard to certification where a grant is thrown out, that has reference to the reserved subjects. With reference to the transferred subjects the present power of the Governor is not to restore it but to leave it to the Council itself, and the fate of the Ministers will be that they will have to go. In the case of reserved subjects the Governor has power to certify a grant which has been thrown out, and in addition he now has power, where he thinks the discharge of his responsibility requires that a certain item should be sanctioned apart from the budget, to sanction it.

I appeal to the experience of the members of the Legislative Council, and to Ministers with long experience, to say on how many occasions this power was exercised. I know only one occasion in Southern India where this power had to be exercised, and was exercised in consultation with the Cabinet, namely, when the Moplah rebellion broke out in Southern India. The Legislative

Council was not sitting at the time, and the Governor had to certify this in consultation with the Ministers and the Members concerned. That is the only occasion in the last ten years in Southern India where the extraordinary powers vested in the Governor were exercised, and the exception proves the rule that the existence of such powers is necessary to meet such cases as I have described.

With regard to the Legislative powers, Sections 37 and 42 of the Nehru Report acknowledge the need for the same powers that are now provided in the Government of India Act. They refer to the legislative powers with regard to the previous sanction of Bills with regard to finance matters, and for referring Bills back, such as are contained in the Government of India Act. Those powers are also recommended by the Simon Commission. The powers of the Governor in regard to administration are described in paragraph 50 of the Report, and the financial powers as we find them in Section 72D and the legislative powers which are necessary are all suggested in this Report. I therefore say that the Governor must have these powers with a view to carrying on the administration on practical lines.

From a strict constitutional point of view it may be argued that the Governor should get rid of a Ministry or have a new Council. That may be quite true logically, but what is our practical experience? What effect will this have on administration? If every time there is a dissolution of the Council, if every time the Governor dismisses the Ministry, it will lead to what happens in some other countries. To avoid all such contingencies and to carry on the administration for the benefit of the people and for the political advancement of the country it is necessary that some of these powers to which I have referred should be vested in the Governor. It cannot be that the Governor will exercise them arbitrarily under the new conditions, when he has a responsible Ministry which is responsible to the people of the Province and he has to be guided by their advice.

Mr. Zafrullah Khan: I feel, with all respect, that there is some slight confusion with regard to the powers of the Governor between what are described as the overriding powers and the powers in the case of a breakdown. The overriding powers, whether wide or narrow, will be exercised, we must realise, at times when the government of the Province is being carried on on ordinary, normal constitutional lines; that is to say, when there is a Legislature in existence and a Cabinet responsible to the Legislature, and some difficulty or emergency arises which it is not necessary to get over by the dismissal of the Ministers, a fresh election and the formation of a new Cabinet, but where we feel the Governor should have power to get over the difficulty by differing from and overruling the advice or decision of his Ministers. These are what I understand to be the overruling powers, and those are the overruling powers—(1), (2), (3), (4) and (5)—described by the Simon Commission as being those which the Governor should ordinarily possess.

Let us suppose that action is proposed to be taken which constitutes a grave menace to the safety and tranquillity of the Province,

and the Governor finds that his persuasion and advice are not being accepted. He should then have the power, though its limits should be strictly defined, to interfere in order to preserve Law and Order, and to say " This shall not be done, because in my opinion it will endanger the safety and tranquillity of the Province ".

Otherwise, the government will be carried on at that time in ordinary normal conditions.

On the other hand, there is the other question to which perhaps not so much attention has been paid this afternoon as ought to have been paid to it, the question of a breakdown, which is dealt with under Head No. 5 of the heads of discussion. Supposing either the Legislature broke down or there was non-co-operation in the Province and people refused to return representatives, or when a Legislature has been formed everybody refuses to take office, or when a Ministry has been formed the majority goes on turning it out every time, the question is what powers shall be possessed in that case, and it is only in regard to those that I want to make a submission or two.

With regard to those, the procedure suggested by the Simon Commission is that under the supervision, control and superintendence of the Government of India, the Governor-General should have power to declare a state of emergency and to carry on the Government for a period not longer than twelve months, to report his action to the Parliament, and it is possible to carry out that plan for longer than twelve months if Parliament so certifies. In my submission there ought to be two modifications in this scheme recommended by the Simon Commission as an alternative scheme in the case of a breakdown. There is not enough time to develop my suggestions, but I ought to put them before the Committee for consideration. One is that in such an event the Governor shall have all the powers of carrying on the Government. Naturally he must have, because there is a breakdown, and he must have people to assist him. There is no objection in that; but to say that he can nominate to the Legislature would mean that even at that time a Legislature would be sitting. If that is so, that seems rather illogical, with all respect, in this sense, that when there is a breakdown the Governor shall have the full responsibility, and for the Legislature to continue to sit during these periods, would not be a help to the Governor. When there is a state of emeregency, the Legislature should be dissolved at once, the Governor should carry on the government of the Province on his own responsibility by appointing any advisers he chooses to appoint, with all the powers of certification by ordinance and so on.

The next suggestion which I have to submit as a modification is that these powers should be exercised for a period not longer than six months instead of twelve months, and within six months they must have another election to the Legislature and see whether the Government can normally carry on the government of the Province with the help of the new Legislature, forming a new government if necessary.

Mr. Joshi: I feel that it would be a great mistake if we showed distrust of the responsible Ministry from the very beginning of the new era in India. I myself hold that the Chief Minister and the Ministry, who care for the interests of the country at least as much as any foreign Governor, should not be mistrusted and will be more responsible. Unfortunately, in this world we have the experience that if we treat people as irresponsible they become irresponsible, therefore, let us not treat them as being irresponsible people from the very start of the new era. I feel that if we once begin to give special powers to the Governor we shall have to give him some other powers also. If for instance, you ask the Governor to act in an emergency in a certain way, in the first place he will get the power with tampering with the loyalty of the Civil Service to their political chiefs. How can the Governor do anything unless he asks the public servants to obey his orders against the advice of his Ministers? That must be the first result. The second result will be that the Governor must also possess the power of dismissing public servants. If he has not got the power of dismissing, for example, a police officer who obeys the political chief, how is the Governor going to get his orders obeyed? He must, therefore, also have the power of making appointments. I therefore, feel, Sir, that no special powers should be given. The powers which constitutional Governors possess, namely, the power of vetoing legislation, are very wide powers, and can be utilised by Governors in a large number of cases. Then the Governor has the power of dismissing a Minister, which, in a large number of cases will secure for him his object. Then he can dissolve the Council, and I think that these three powers will enable a Governor to secure his object. I therefore think that in no case should the Governor possess a special power to override the advice of his Ministers. If we say that the Governor will be responsible in an emergency I do not know, why the Governor should be more responsible than the Chief Minister. If there is a rebellion in the country, the Chief Minister will also suffer from the rebellion, and, therefore, the Chief Minister will have to take all the measures which the Governor is expected to take. Moreover, I am told that the Governor must intefere on behalf of minorities. In the first place, we are going to give the minorities protection by their special representation, and that should secure for them whatever their object is. Now, if they expect the Governor to secure for them the proportion of Government posts, then logically is follows that they must give the Governor power to make all appointments, from the smallest appointment of a peon to the highest appointment. If the Governor has not got the power I do not know how he is going to secure equality or proportionate distribution of the posts. They must leave that to the Ministry, because if the Ministry does not act properly towards the minority, the Governor must dismiss the Minister and try to secure another Minister. He must dissolve the Council and secure a better Council. I do not think the Governor can assume for himself the power of making all appointments. Then it was said that the Governor should also use his power to

secure financial stability. I do not know how any Governor can do it. If the Governor begins to interfere with the Finance Member's business, then the Governor will have to secure all the powers to himself. I do not think, therefore, that any of these powers should be left with the Governor.

My view, therefore, is that we should not invest the Governor with any special powers; but his powers with regard to vetoing legislation, his power as regards dismissing the Ministry and his power as regards dissolving the Council should be quite sufficient for his purpose.

Chairman: That ends the list of speakers that I had on the question of the powers of the Governor. I do not know whether you could assist me. I have not had the opportunity, of course, of examining the notes of the meeting to see where we stand with regard to this subject. If I were to put these three points—I do not want to vote in the sense that it is a final decision; as I have already said, everything must be provisional—but if I were to put two or three questions just for guidance I think it might assist us in drafting the report. The first question submitted was, is there to be a discretion with the Governor to appoint an official Minister? ("No, no.") I think that so far as I can see, nearly the whole of the speeches from the Indian representatives, at any rate, were against that discretion; so we had better just leave it at that for the moment.

The next question is, "Should the Governor have any special power to act otherwise than on the advice of his Ministry, whether in the matter of administration, legislation or finance?" That would be, I suppose, under strictly normal circumstances. Now, I do not think that that position was quite so clear as the first one. There has been some difference of opinion.

Sir Chimanlal Setalvad: I submit that in a general Committee the powers now suggested under Section 52, clause 3, the powers I read, should go. That empowers the Governor, in a day-to-day administration, to act contrary to the advice of his Ministers.

Chairman: Is there any objection to that position?

Dr. Ambedkar: Might I suggest that it should be put separately —normally and in emergency?

Chairman: The next point I am going to put deals with an emergency. I thing this deals with ordinary times. I purposely put in the word "normal". Is it Section 50 or Section 52?

Sir Chimanlal Setalvad: It is Section 52, clause 3 of the Act.

Sir A. P. Patro: That will go, naturally.

Chairman: Is there any objection to that?

Mr. Zafrullah Khan: None. That must go.

Chairman: "Should further power be vested in the Governor for use in times of emergency to enable the government to be carried on in the event of a breakdown in the normal constitution?" ("Yes, yes.") That is in the event of a breakdown in the normal

constitution. I think there can be no disagreement about that. Somebody must act. Things must be brought back to normality. There seems to be agreement there.

The next point is the question of the Second Chamber. We have had a good many references to a Second Chamber. I do not know whether it would assist you, or whether we could get agreement, but my own feeling was that the majority of the Committee was rather favourable to a discretion being left with the Provinces to have a Second Chamber if they so desired, but it was not to be made obligatory in the new constitution. I do not know whether there is any disagreement with that point of view.

Dr. Ambedkar: We should like to say one thing on that point, that the Second Chamber should not be constituted first, and then its abolition should be left to constitutional resolution requiring a certain majority. What we suggest is that if the situation is such that it should be left as a matter of discretion in certain Provinces, then first of all a resolution might be passed by the Provincial legislature expressing its desire for a Second Chamber, and then that the Second Chamber should be constituted. It should not be first imposed on the Provincial legislature by the constitution.

Chairman: If you are going to leave a discretion you leave a discretion. You do not impose it, you leave it for the legislature which is to be formed to ask for it. That is how I understand the principle of discretion in that connection.

Sir P. C. Mitter: I should like to say one word in this connection. In the legislatures where they have already asked, for instance in Bengal, in Bihar and Orissa, and in the United Provinces, where the Committee appointed by the representatives have already asked, where the Government have already recommended, and where the Government have already accepted, we may proceed on the principle that they may be accepted, subject to further discussion in the full Conference; but where they have not asked it may be left to discussion in the open Conference.

Mr. Joshi rose to speak.

Chairman: Just a moment, Mr. Joshi. Supposing that the position just put before the Committee by Sir P. C. Mitter was the position, or is the position when this constitution comes to be put into operation, there is nothing to prevent the new legislature in the Provinces to which he refers exercising its discretion and bringing into being a Second Chamber. If they had not come to any such decision, there is nothing to compel them to take such a decision, that is how I used the word discretion.

Mr. Joshi: That is all right. That expresses our feelings.

Sir P. C. Mitter: I understand where a discretion has already been exercised, the discretion will be on the new legislature.

Chairman: The discretion will be the discretion under this new constitution. You might have a lot of strange decisions applied to you if it was under a past constitution. It must be that the decision of the legislature when the constitution has been put into operation.

Sir P. C. Mitter: In that case, I would like the point debated at greater length. It is a point of the utmost importance.

Mr. Jadhav: Is the hon. member diffident about this?

Sir P. C. Mitter: Not at all.

Chairman: Very well, let us hear your speech on the subject.

Sir P. C. Mitter: My point is that we are going to frame a new constitution. On the new constitution we first of all took the advice of the Statutory Commission, we also got the assistance of members elected by the Provincial Legislature, we also got the advice of the Central Committee, and when the elected representatives of the local legislature gave their advice after that, that advice was considered both by the Statutory Commission and by the local Government, and finally that advice was considered by the Government of India; so that in the case of Provinces, where we have the advice first of all of the representatives of the local legislatures, then of the Provincial Government, and finally of the Government of India, we stand in a position different from that of the Provinces; for example, Bombay, where they do not want a Second Chamber. Therefore, as our whole object is to frame a constitution, and that constitution is being framed on advice already obtained, I submit that there is a difference. Therefore, I should be perfectly content if my friends here would come to this agreement, that as regards these Provinces, we start with the presumption of this advice. On the other hand, if they do not, then I submit that this is a question of such importance that it ought not to be summarily disposed of one way or the other at the fag end of a sitting. It is a question of great importance. A great deal depends on this. The future safety of the Provinces, the tranquillity of the Provinces, decisions taken in haste—many things depend on it. Therefore, we should not so lightly ignore the unanimous opinion of the representatives of the local legislature, of the Government and of the Government of India.

Chairman: But just let us see where we are. Our friend here is objecting to discussing this matter, though he asked for a discussion and he has made the first speech in the discussion. He is arguing now that we should not continue the discussion because the matter is of such importance. How that arises out of giving any Provinces discretion, to be exercised, as it will, under the new legislature in that Province, I cannot for the life of me understand. Supposing that we were to take a very emphatic decision and vote, we should probably find that three parts of this meeting was going to give a declaration against Second Chambers. He would then have some complaint, but we are avoiding that by leaving it absolutely open, and saying that in his Province they can come to their own decision.

Sir P. C. Mitter: In the new legislature?

Chairman: In the new legislature, yes. Surely he is prepared to trust his new legislature?

Mr. Joshi: Or is he afraid of his new legislature?

Sir P. C. Mitter: My point is, why should I lose the advantage I have already got? If I may say so, I do not want to avoid the discussion, but what I do want is this. I will discuss, but if you want to discuss, discuss after taking into account the importance of the subject at a time when members are willing to discuss this important subject.

Sir Chimanlal Setalvad: We are quite willing to discuss it.

Sir P. C. Mitter: You may say you are quite willing to discuss it, but at this fag end of the meeting, we all know that we shall be discussing in a hurry this important subject. That is my point, and in that case, and in any case, our recommendations will come before the full House. Therefore why should I lose the advantage of the considered opinion in the case of these three Provinces? If other representatives from these three Provinces object, I can understand, but if other representatives from these three Provinces do not object, why should my friend from Bombay shake his head? If the representatives of Bengal objected, if the representatives of Bihar and Orissa, if the representatives of the United Provinces objected, I could understand that. If there is to be self-determination, let there be self-determination in the Provinces.

Sir Chimanlal Setalvad: That is what you want to avoid.

Sir P. C. Mitter: No, I do not want to avoid it. You want that the advantage that I have already got should be wiped out. That is the difference.

Chairman: But surely my friend must admit that to be afraid of losing an advantage that you have already got is not self-determination so far as the new legislature is concerned; it is taking away their discretion. I am fighting for the discretion for your new legislature, and that is self-determination, not for somebody, before the constitution ever was brought into being, to determine something for your Province—that is not self-determination.

Sir P. C. Mitter: I do not for a moment want to take away the right under the future constitution to take away what is going to be given. According to my idea let there be a statutory provision so that by means of constitutional resolutions, as the Government of India has suggested, it will be open to discussion. We are talking of what has been decided to-day or else all the previous papers are worthless. Are not the decisions which have already taken place to-day taken into account by everybody who has to look into it. I do not object to the future legislature deciding by constitutional resolution to abolish this, that I do not object to, but I do say that as we are including in these certain decisions already taken, and as these three Provinces stand on a different footing, why should members who do not come from these Provinces object? that is my point. If others coming from these Provinces objected I could understand that, but those who are concerned in these Provinces want it and do not object. Therefore my points is: let it be recommended to the whole House and then the whole House will have the right to discuss it, not that I am asking you to take a decision to-day.

Chairman: If by "the whole House" you mean the full Conference in Committee, they will have the right to discuss it, because the report of this Committee will be presented and the question of leaving to the Provincial legislatures a discretion with regard to Second Chambers would be open to discussion in that full Conference in Committee. If we can get our Report completed this week, it will probably be discussed at the meeting that is to be held early next week.

Sir P. C. Mitter: Perhaps I have been misunderstood, Sir. I cannot object to the whole House coming to the decision that there should not be a Second Chamber without a special constitutional resolution by the new Legislative Council; that I am not objecting to. All I am pleading for is that our Report should say that inasmuch as representatives from these two Provinces do not object, inasmuch as their Provincial Committees asked for it, their Provincial Government asked for it and the Government of India asked for it, our recommendation is that this be accepted. But it must be open to the whole House to reject the recommendation.

Chairman: Yes, it will be open to the whole House to reject our full report if they wish to do so.

Sir P. C. Mitter: These three Provinces stand on a different footing, and therefore our recommendations should be on that basis.

Mr. C. E. Wood: Sir, could we put in a rider that with regard to certain Provinces which are mentioned as special, in which the Provincial Committees recommend second houses, the representatives of those Provinces appear to be in favour of forming Second Chambers. Perhaps that would meet Sir P. C. Mitter's objection.

Sir P. C. Mitter: Yes, that would meet my objection.

Dr. Ambedkar: That is a fact which has to be taken into account.

Sir Chimanlal Setalvad: My friend Sir P. C. Mitter has repeatedly asked why Bombay objects to his proposal, and why are other Provinces objecting to his proposal. I will give him the answer: because the course he is proposing is against the self-government that he himself wants.

Sir P. C. Mitter: No.

Sir Chimanlal Setalvad: Yes, it is; he says: inasmuch as the expiring Council has so decided.

Dr. Ambedkar: They have not; that is the point.

Sir Chimanlal Setalvad: And that inasmuch as some other authorities have said so, therefore the new Legislature that will come into existence under the new constitution should not have the discretion to decide upon it, but it must be first imposed upon them and then they can say: we do not want it. That is inverting the whole process. It is either one thing or another: either Bengal wants a Second Chamber or it does not. If Bengal wants a Second Chamber, then surely there should be no difficulty in the Legislative Council under the new constitution asking for it. Why is he afraid

to go before it and get that resolution? If, on the contrary, Bengal is against it, then surely you cannot force upon unwilling Bengal in the new council the wording of the old council and the wording of other authorities and committees that have considered the matter. To my mind it is so simple; there should really be no discussion of this in the way the Chairman put it. We are giving complete discretion to each Province to determine by constitutional resolution of the Legislative Council whether it requires a Second Chamber or not; the field is completely open, and if the case for Bengal for a Second Chamber is so strong as is said, then surely there can be no difficulty in getting that resolution passed.

Sardar Sampuran Singh: The position is not this, that by deciding that there should be two Houses you would be in any way limiting the authority of the coming constitution of India; but if at present we do not decide it, we shall be decided only with regard to one interest in the country, that is to say only with regard to those people who are more likely to go into the lower House. But the interests of those people who are likely to go into the higher House naturally will not have the same amount of voice in the lower House. In these Provinces where they want two Houses there are two kinds of people, each different from the other. There are different communities of interest and in order to legislate for those two different communities of interest I think it is to a certain extent necessary that provision should be made for both of them. If we do not consider this point now, I think we should be ignoring one community of interest where it exists in certain Provinces.

Chairman: But that is an entirely new point. As I understand you, you are wanting us to lay it down definitely that there shall be a provision for two Houses. I did not quite gather whether you intended to enforce that upon the Provinces as a matter of statute. All I am suggesting is we shall have to leave it to the discretion of the new Legislature as to whether it shall call into being a Second Chamber.

Sardar Sampuran Singh: What I wanted to submit was this, Sir, that by saying there shall be one House and the second House is to be created by that lower House, we should be ignoring the interests of the people who are to go into the second House. There are Provinces, for example the Punjab, which do not want a second House; but there are different communities of interest in certain Provinces and there a second House is required. If we now give them only one House we shall be ignoring the claims of those people who think they want a second House and have a separate community of interest from those who are more likely to go into the lower House.

Sir P. C. Mitter: The question of a second House was not really on our agenda paper; it was discussed incidentally. Therefore I suggest we make no recommendation one way or the other but merely say that it was suggested incidentally, that some speaker suggested there should be a second House while others objected. We should leave it to the Conference because it was not on the

agenda paper and was never fully discussed. That ought to meet my friends. I do not want to run away with a decision. Let the whole Conference decide this question. I will place my points before the whole Conference and the whole Conference will then decide whether I should have the advantage, whether the self-determination should be only self-determination of the future or should be self-determination of the past as well as self-determination of the future. With some confidence I suggest that I can fairly ask for that. It was not on the agenda paper; it is true it was incidentally discussed, but I have many things to say which I would have said at an earlier stage if it had been definitely on the agenda paper.

Chairman: I would like to remove this grievance; we had better have it out in our Committee rather than have it out in the full House, as the suggestion has been made. I think you had better leave it and there will be some reference in the report which I hope we shall be able to discuss on Friday amongst ourselves; If Sir P. C. Mitter is not satisfied with the reference, we will give him the opportunity of making any speech he desires to make upon that part of the report and try to influence this Committee to give him such an amendment as will give him satisfaction. There are one or two other points I should like to mention for your guidance. We have had no discussion at all on two points affecting the Legislature: first of all, the question of how long the new Legislatures shall last; are they to go on for four years or five years?

Some Members: Five years.

Other Members: Four years.

Chairman: I am only asking you to put something in the draft report and I will put in five years. If you move that it should be four years then we will discuss the pros and cons. You are about equally divided between four and five years; I as Chairman will decide for the time being and I will put in five.

(The sub-Committee adjourned at 5-40 p.m.)

PROCEEDINGS OF THE FIFTH MEETING OF SUB-COMMITTEE No. II (PROVINCIAL CONSTITUTION), HELD ON 15TH DECEMBER, 1930.

Chairman: Perhaps I ought to say that I have sent each member of the Committee a copy of the draft report. In beginning the proceedings I will assume that the report has been read, and therefore I will not take up the time of the Committee by reading it. I propose to take the report paragraph by paragraph, and, if there are amendments, sentence by sentence; but if there are no amendments to any paragraph, I hope the time will not be taken up in discussing the mere wording of any of the paragraphs, because we have to keep in mind that we are not framing a Constitution. A process will have to be taken up at a later stage when all these things will have to be, as I have said repeatedly, fitted into the Constitution; the language that is used in the report is perhaps not so technical and legal as it will be when it comes to be

fitted into the entire Constitution. If we would keep that in mind, I think perhaps it would avoid speeches being made on the mere wording of a sentence.

" 4. The abolition of dyarchy. The sub-Committee is agreed that in the Governor's provinces the existing system of dyarchy should be abolished and that all provincial subjects, including the portfolio of law and order, should be administered in responsibility to the provincial legislatures." To that I have an amendment by the Earl of Zetland, which I will now ask him to propose.

Mr. Joshi: I have an explanation to ask.

Chairman: Yes, an explanation.

Mr. Joshi: We did not go into the whole list of provincial subjects, but we thought that the powers of the Legislatures would be first considered by the sub-Committee A. The explanation I want is this: there are some matters which are considered to be provincial, but are subject to legislation by the Central Legislature. The subjects in which I am interested and about which I want an explanation are: factories, the welfare of labour and the settlement of labour disputes. These are considered to be provincial subjects but are subject to legislation by the Central Legislature. I do not know what is to happen to these subjects, whether they will now be transferred wholly to the Central Legislature, or will be reserved for the provincial legislatures. They were kept as reserved subjects and not transferred subjects, for a very good reason, that the legislation was central. The legislation was central as regards factories which may ask for certain inspection to be undertaken, and if the Central Government had no control over the Provincial Government in that matter, the legislation would be futile. Therefore these subjects were subjects for Central legislation as well as reserved subjects. I therefore want to know, Mr. Chairman, whether we have taken any decision on this matter or whether that will be a subject to be considered by the First Committee.

Chairman: I understood that that was a subject to be considered by the First Committee and that it was no part of our discussion. My report is, as near as I could make it, based upon the actual discussion on this Committee or upon subjects definitely coming within the scope of this Committee, and certainly not coming within the scope of any other Committee. I think Mr. Joshi need have no fear but that it will be discussed and if he has any desire to have the matter explained, he had better give notice to the Chairman of the Committee meeting to-morrow that he will ask him a question to make it clear.

Mr. Joshi: My only desire was that I should not be precluded from raising that point when the report of the First Committee comes up for discussion.

Chairman: No, you cannot be, because we are not covering the ground.

Lord Zetland: Mr. Chairman, the amendment which I should like to put before this Committee is not really an amendment of any

substance so far as the main principle of clause 4 is concerned. What I am anxious to do is to provide that the services, and particularly the Police Service, shall be immune from political interference of a party kind. It was agreed in the course of the discussion which took place last week that it was very desirable that the services should be placed completely outside the influence of party politics. What I would like to suggest to the Committee is this, that in that respect we should place the services—and I am dealing particularly with the Police Service— as far as possible on the same footing as they are in this country. In this country the matters of the internal economy of the police force, so to speak—that is to say questions of discipline, training and promotion—are dealt with by the head of the Department, the Commissioner of the Metropolitan Police in the case of London, and Chief Constables in the country. There is in existence in this country an organisation which I think is known as the Police Federation, which consists, with the exception, I think, of a solitary representative of the Home Department, exclusively of police officers. Without the consent of that body no alterations in the rules or regulations relating to emoluments, conditions of service, promotion and so on, can be made. It has been found very desirable to have a system of that kind in this country and I think it would be equally desirable to have a similar system in India.

Now bearing in mind what your Chairman said, that we are not framing a detailed Constitution, I merely put forward a suggested addition to paragraph 4—not that I am wedded to the particular wording which I have given to it, but merely to make that point. The addition to paragraph 4 which I suggest is as follows: "But the sub-Committee is of opinion that statutory provision should be made that the responsibility for the maintenance of discipline and for the recruitment, training and promotion of the provincial police force, now vested in the Inspector General of Police, should continue to be vested in him, and that in the discharge of these functions he should be subject only to such control as may be necessary to ensure that the police administration of the Province conforms to the general policy of the Government".

Now, Sir, I think I have very nearly taken up my five minutes and I will not therefore delay the Committee further. That is the point I want to make.

Chairman: Just as here the police force in a certain degree is under the control of the Secretary of State for Home Affairs. The amendment proposes an addition, a new paragraph following paragraph 4: "But the sub-Committee is of opinion that statutory provision should be made that the responsibility for the maintenance of discipline, and for the recruitment, training and promotion of the Provincial police force, now vested in the Inspector General of Police, should continue to be vested in him, and that in the discharge of these functions he should be subject only to such control as may be necessary to ensure that the police administration of the Province conforms to the general policy of the Government". Now that is the amendment.

Mr. Chintamani: Sir, I appreciate the anxiety of the noble Marquess to make it clear beyond doubt that the discipline of the police force and its efficiency shall not be affected by political and personal considerations which he apprehends may weigh with the Minister; but I think, Sir, the amendment is partly superfluous and partly undesirable. It is superfluous for the reason that, as he himself admits in the body of the amendment, the matters to which it relates are at present under departmental control, and there is absolutely no reason for us to assume that steps will be taken, either in respect of the Police Department or any other Department, calculated to affect the efficiency and discipline of the working of the Department.

If it is merely superfluous, it is also undesirable for the reason that we start, as it were, with an expression of doubt as to the manner in which, and the motives and purposes for which, the future self-governing Government of a Province may work in respect of this Department or any other Department. Just as the noble Marquess has moved this amendment in respect of the police, other members may move similar amendments urging statutory provision with regard to other Departments, and the result will be a continuation of the present undesirable state of affairs where it is often seen that the Ministers are only the nominal heads, and the heads of Departments are the real heads. We do not want this to happen; we desire that the new Constitution should be started in an atmosphere of confidence; and, as I suggest respectfully to the noble Marquess, it may be the better part of wisdom to have that confidence and not to suggest clauses which are only suggestive of suspicion.

Mr. Jadhav: May I ask as a matter of information whether the noble Marquess contends that the present independence of the Police Department is not sufficient, and that more independence should be given, or that he intends that the present state under the Executive Council should continue.

Lord Zetland: No, my intention, as appears in the proposed amendment, is that the existing control should continue. I do not want to alter the existing position.

Mr. Jadhav: Then does he mean to say that the present interference by the Home member should continue in the hands of the Minister?

Lord Zetland: Yes. All I want to secure is that the powers and position of the Inspector-General of Police as they exist at present should be secured to him in the future.

Mr. Joshi: My question is this. Lord Zetland proposes that the recruitment of police services should be in the hands of the Inspector-General. We hope to have a Public Services Commission. Does the noble Marquess desire the Public Services Commission to be deprived of the power of recruitment for police service?

Lord Zetland: It depends. Of course, if there is to be a Public Services Commission in every Province, that will make a difference,

and I agree, I think the recruitment should be done by the Public Services Commission.

Mr. Joshi: That would be one of the proposals which we would be making.

Chairman: I am only allowing questions; I am not allowing discussion upon this point. I have called upon this gentleman here to speak, but I was allowing two questions to be put. Now are the questions finished, because I cannot allow them to go on indefinitely.

Sir Chimanlal Setalvad: Sir, as you will remember, there was discussion in this Committee about the recruitment of the public services in the Provinces, and the general trend of opinion then was that the recruitment should be in the hands of a Public Services Commission. Therefore the Police force recruitment will be included in that scheme, and when we come to the proper place, we shall have to add, I submit, a paragraph about the recruitment of services in the Provinces.

Then as regards discipline and various other matters included in this amendment, I entirely agree with my friend, Mr. Chintamani, that the way in which the amendment has been drafted suggests doubt and apprehension that the Minister in charge of law and order will not deal with the matter in the right way, and if you lay down rigidly what has been put in the amendment, you will create from the start friction and want of confidence between the Minister in charge and the Inspector-General of Police, or whoever the authority may be. I hope, therefore, that Lord Zetland will not press his amendment. In all these matters, as I have already said, you have to take risks; you cannot safeguard every possible contingency. You have to take risks. There may be mistakes. In a certain way things may be done which may for the moment be undesirable; but, after all, when responsibility is put upon people they will in a very short time adjust themselves to the right conditions. I therefore am opposed to the amendment.

Sir A. P. Patro: I think this amendment is due to the desire that if law and order is transferred to the Provinces there should be some safeguard in reference to the Police Service which should not be subject to political influences. A Public Services Commission will no doubt be formed. In some Provinces such a body is already in existence. In my own Province it is in existence and is working. Whether recruitment to the Higher Services should be wholly entrusted to the Public Services Commission is open to some doubt, and that is being considered now in the Madras Presidency. The transfer of this power of recruitment to the Public Services Commission has not yet taken place, because it is desired first to make an experiment in regard to other Services in order to see whether the method will prove successful. It seems to me that a certain safeguard is necessary so far as Provincial recruitment is concerned, and that the matter should continue to be, as it is now, with the Inspector General of Police. This is a special Department—a security department. Therefore, unlike other Departments I think

some provision is necessary—subject to the control of policy and of conduct of the Minister in charge of Law and Order.

Sir Cowasji Jehangir: You mentioned that there was a Police Federation here. Am I to understand that the Home Member is not responsible for discipline in the Police Force in England, and that if any questions are asked in the House of Commons the Government does not take upon themselves the responsibility for disciplinary action, of if any injustice is done to a policeman and questions are asked they can absolve themselves of all responsibility?

Lord Zetland: No. Ultimately, of course, the Home Minister takes responsibility. He answers questions in Parliament, but certain powers are delegated by him, in working, to somebody else.

Sir Cowasji Jehangir: The proposal can only mean one of two things—either to retain the powers which the Inspector General has to-day, or enhance them. Lord Zetland distinctly mentioned that he wanted those powers now vested in the Inspector General. I know of no section in the Act which vests any power in the Inspector General at present.

Lord Zetland: Yes; he has his powers under the Police Act.

Sir Cowasji Jehangir: Under the supervision, control and direction of the Government.

Lord Zetland: Yes.

Sir Cowasji Jehangir: There are no powers vested in him overriding the control of the Government.

Lord Zetland: No. I am not asking that he should be given powers overriding the control of the Government. That would obviously be absurd.

Sir Cowasji Jehangir: Then you want the *status quo* to be ensured?

Lord Zetland: Yes.

Sir C. Setalvad: Making him independent of Government, except as to policy?

Lord Zetland: No.

Sir Cowasji Jehangir: You want the *status quo* to be maintained?

Lord Zetland: Yes.

Sir Cowasji Jehangir: That is to say, that the new Minister shall have all the powers that the Home Member now has in India, in all Provinces?

Lord Zetland: Yes.

Sir Cowasji Jehangir: Is that all you want?

Lord Zetland: Yes.

Sir Cowasji Jehangir: Then I think the language of the amendment goes much further than that. It can be put quite simply—that the *status quo* should be maintained with regard to the powers

vested in the Inspector General and the Executive Member at present.

Chairman: Let us be clear what it is that is being asked for: " The control of the Provincial Police in matters of recruitment, training, discipline and promotion should be secured, as at present, to the Inspector General by statute ". It is desired to maintain the *status quo* by statute.

Sir A. P. Patro: I do not think the noble Lord insists on Statute.

Chairman: There it is; it is by Statute. Then he goes on " The training and promotion of the Provincial Police Force now vested in the Inspector General should continue to be vested in him ", and then " and that in the discharge of these functions he should be subject only to such control as may be necessary to ensure that the police administration of the Province conforms to the general policy of Government ".

Diwan Bahadur Ramachandra Rao: I think Lord Zetland's amendment is altogether unnecessary. The policy has been to establish Public Service Commissions and gradually to transfer the recruitment of all the Services to those bodies so that there may be no political influence exercised by the Ministers in the selection of men for Public Service. If the Inspector General of Police should be made an exception to that general policy which is being followed in the Provinces it may be awkward. In Madras the Public Service Commission has already been appointed and the duty of recruitment to the Services in the Province, except the All-India Services, is being transferred to that body. I think that is the solution. As regards disciplinary action, I think it is now becoming the rule that before any disciplinary action is taken against any of the officials the opinion of the Public Services Commission is obtained, and the Local Government passes final orders in the light of that opinion. So that both in regard to recruitment and disciplinary action, the general policy which is now being followed in India is to leave these matters to an independent body apart from the Ministers, and to follow the advice of that body as far as possible. I think that if we now introduce this amendment it will act against the policy which the Local Governments are now following. The constitution of Provincial Public Services Commissions has been recommended by the Simon Commission, and I think that these matters ought to be left to the Provincial Public Services Commissions.

Dr. Shafa'at Ahmad Khan: I am in favour of the principle underlying this amendment, but I should like to make one suggestion to the noble Lord. The Conference, I believe, will appoint a sub-Committee on Services. This is a question which demands very careful and thorough attention. It is a question concerned not only with the Provincial Services, but also with the Imperial Services. There may be some persons who would like this suggestion adopted not only in the case of the Police Services but in the case of Executive Civil Services. I submit, therefore, that the whole question

should be threshed out when the sub-Committee on Services is appointed. I believe that is the proper place for a discussion of this nature.

Mr. Zafrullah Khan: I am in favour of the amendment to this extent—that so far as the first part of the amendment is concerned, that is to say, that the powers in these matters mentioned in the amendment, which are at present exercised by the Inspector-General of Police, shall continue to be vested in him, subject to the proviso " except in so far as any of these powers may, at any subsequent stage, be transferred to, or vested in, a Provincial Services Commission ".

Sir A. P. Patro: You do not want statutory permission, do you?

Mr. Zafrullah Khan: No. I am coming to that. Secondly, that this reservation in favour of the Inspector-General should be secured by orders made under the Statute, and not by provision in the Statute; because if we start allowing these provisos and other things to be put into the Statute, many other things will be insisted upon as being incorporated in the Statute, which will make the Statute absolutely unworkable, and certainly very voluminous. Thirdly, with regard to the second part of the amendment—that the exercise of these powers by the Inspector-General of Police shall not be controlled by the Government except in so far as may be necessary to secure conformity to the general policy of the Government—I should like to put it in another way; that is to say, that the Member in charge, or the Local Government, shall not interfere with the discretion of the Inspector-General of Police in these matters, or the exercise of powers by that gentleman, except to the extent to which the Home Member is at present entitled to interfere. That will secure that the existing state of affairs shall continue. On the one hand, the powers of the Government of interference in these matters will not be curtailed; and, on the other hand, doubts will be set at rest that they will not in future be enlarged or extended.

Chairman: Perhaps I ought to say, for the information of the sub-Committee, that the Prime Minister has already provisionally appointed a sub-Committee on Services, and he will probably say something on the matter at the full meeting to-morrow. I do not know whether we have discussed this matter sufficiently, or whether Lord Zetland would like to say anything in view of what has taken place.

Lord Zetland: There is only one thing I would like to say, and that is with regard to what Sir Chimanlal Setalvad and Mr. Chintamani have said, namely, that this was casting suspicion upon the possible conduct of the Minister. Certainly it is not intended to do that in any degree. The Home Member in this country does not consider that a reflection is cast upon him by these provisions which are made over here for securing to the Head of the Police Department the exercise of certain powers; and if the Home Secretary over here does not feel that a reflection is cast upon him, I cannot understand why a Minister in India should feel that a

reflection was cast upon him. At any rate, do let me say that I have not the smallest desire to cast any reflection of that kind. Mr. Chairman, it seems to me that there is a fair amount of support at any rate for the principle for which I am contending, and I must leave it to you, Sir, to decide what the views of the sub-Committee are.

Chairman: If I have gathered the sense of the Meeting, there is a fair amount of support for the suggestion that the matter should be allowed to go to the Services sub-Committee. That is the feeling, I think.

Sir Robert Hamilton: May I ask whether it would be possible just to make a reference to the Police here, and say that we are of opinion that questions relating to the Police should await the decision of the Services sub-Committee—just to show that it has not been overlooked?

Chairman: We might add a foot-note at the end of the Report saying that the matter of the Police was raised but that it was thought that any further conclusion on it should be deferred until the Report of the Services sub-Committee was known. Would that meet the case? If Lord Zetland would be prepared to leave it in that way he would still have a further opportunity to raise it in the larger body, if he were not satisfied. We could agree upon a suitable foot-note. It would still keep the matter open, and you could raise it at a subsequent stage.

Lord Zetland: Very well, as long as it is made clear that I am not abdicating my rights to press this point.

Chairman: No. It is left open in the way of a foot-note, and you can reserve your right to raise it at the final stage of the proceedings. I think we might agree to pass on on that understanding.

Mr. Chintamani: I want to understand whether the foot-note you propose to add to this sub-Committee's Report about the Noble Lord's amendment will merely state that the question was raised, or will indicate the nature of the amendment that has been moved.

Chairman: I thought I had put it quite clearly. A foot-note will be put at the end of the Report saying " The question of the Police was raised, but it was decided to await the Report of the Services sub-Committee in the matter ". I think that is quite clear. If there is no other suggestion that means that we accept Paragraph 4 as part of the Report.

Now Paragraph 5. " The composition of the Provincial Executives." " (*a*) Joint Responsibility—The sub-Committee recommends that there should be unitary executives; and that the individual Ministers composing the executive should be jointly responsible to the legislature." I think we had better take that section by itself. Are there any remarks.

Raja Narendra Nath: I give my support to what has been proposed as regards responsibility, but my view may require reconsi-

deration after the Report of the Minorities Committee has been received.

Chairman: Thank you. With that explanation, may we pass on?

(Agreed.)

Chairman: " (*b*) The appointment of Ministers—The responsibility for appointing Ministers will rest with the Governor. The sub-Committee is of opinion that in the discharge of that function the Governor should ordnarily summon the member possessing the largest following in the legislature, and invite him to select the Ministers and submit their names for approval. The Ministers should ordinarily be drawn from among the elected members of the provincial legislature. In the event of the appointment of a non-elected non-official, such person should be required by statute to secure election to the legislature (and if the legislature be bicameral, to either chamber) within a prescribed period not exceeding six months, but subject to this limit he may be nominated by the Governor to be a member of the legislature. The sub-Committee is of opinion that there should be no discretion to permit the appointment of an official to the Cabinet."

I have received notice of two amendments. One is by Mr. Fazl-ul-Huq.

Sir C. Setalvad: I have an amendment to make; it is not a very big one. The sentence at present runs " The sub-Committee is of opinion that in the discharge of that function the Governor should ordinarily summon the Member possessing the largest following ", etc. I would substitute the words " wherever practicable " for the word " ordinarily ".

Chairman: Is there any desire to make that small change?

Mr. Fazl-ul-Huq: I propose that we delete the words " and invite him to select the Ministers and submit their names for approval ", and in lieu thereof to substitute the words " as well as the leaders of important groups, and take their suggestions into consideration before making his final selection ". As I read this paragraph, it is the intention of the sub-Committee to suggest that there should be a following of the procedure which takes place in England—where the Prime Minister is asked to select his colleagues as Members of the Cabinet. I am opposed to that idea.

There is no doubt that in this sentence it is provided that the Governor shall appoint Ministers, but the very last words seem to suggest that after the member with the largest following has been summoned he will be invited—I emphasise the word " invited "—to submit names. I feel that in the course of time this discretion will crystallise into a custom. My apprehension is that for many years to come in the Legislatures we shall have groups based on communities rather than on differences of political opinion, and there have been cases in which the leader of a particular group, amounting to over 70 per cent. in the House, has refused the suggestion of the Governor to take a Minister from the other group.

At present there are officials and other interests in the Chamber and a large number of nominated members, so that the wishes of the Governor are more likely to be respected now than in the days to come when there will be no official bloc and practically no nominated members. The leader of the largest following in the House would then have an absolute discretion to make his own selection and to ignore the claims of everybody else.

For this reason I wish that after the elections are over the Governor, just as he will have the responsibility of appointing the Ministers, will ordinarily summon the member with the largest following, but will also consult the wishes of the leaders of important groups. No doubt he will have to give the greatest possible weight to the opinion of the person with the largest following in the House, but apart from that I should not lay down anything in the Statute or in the recommendations we may make here which would suggest that not only as a matter of ordinary practice, but almost as a matter of course, when the person with the largest following is summoned he should be asked to make selections and suggest names for approval. It is for that reason I suggest this amendment.

Chairman: I ought to say that in this matter I followed very carefully what I thought was the sense of the sub-Committee as revealed in the discussions.

Raja Narendra Nath: I support this amendment.

Chairman: The amendment is that as well as the leader of the largest following the Governor should consult the leaders of important groups.

Sir A. P. Patro: I agree with my friend that parties cannot be formed now on political principles, and there is a difficulty in forming clear-cut political parties in the Legislative Councils. We must make an attempt, however, to see that parties are formed on a political basis and not always on this most troublesome basis of communities. In order, therefore, to make a beginning it is necessary we should ask wherever it is practicable, or ordinarily, the leader of the group with the largest number of representatives in the Council should be called on to form the Ministry. In forming that Ministry, as Mr. Fazl-ul-Huq knows, in Bengal and elsewhere the person called on to suggest names will be most imprudent if he does not consult other groups and leaders in submitting names. As a matter of practice it is done in every Presidency; when a Minister is called on to suggest names for his colleagues he consults other groups and other leaders and takes them into his confidence, and then submits the names to the Governor for confirmation and appointment. In practice, therefore, that is being done, and I am sure my friend will not press his amendment, because it is quite unnecessary in the ordinary course of things.

Chairman: May I remind you that in the next paragraph we say: "The sub-Committee considers it a matter of practical importance to the success of the new constitutions that important

minority interests should be adequately recognised in the formation of the provincial executives." Surely any Chief Minister would be acting most indiscreetly if he ignored this, and this will be part of the constitution.

Mr. Fazl-ul-Huq: I did not overlook that, but as a matter of fact I am going to move an amendment to that, and if that is accepted I shall not press for this amendment. The amendment I propose to move to clause (*c*) is to omit the words " to endeavour " so that the sentence will read " An obligation to secure such representation should be expressed " and so on. I want to delete the words " to endeavour " because " to endeavour " may mean nothing.

Chairman: Do you not think, after the explanation which has been given, you can trust us until we get down there?

Mr. Fazl-ul-Huq: If the words " To endeavour " are left out I might not press for this amendment.

Chairman: We will try to help you when we get there.

Raja Narendra Nath: The amendment proposed will be productive of no harm.

Chairman: I am more concerned to be convinced that it will do some good, if I have to change my report.

Mr. Chintamani: As it is suggested this amendment might be withdrawn in view of the sentence to which you have drawn attention, I think it fair to state that I am going to move an amendment for the deletion of that sentence when we come to that part of the report.

Sardar Sampuran Singh: I think instead of taking this point at this stage we might leave paragraph (*b*) and make a provision that this will be subject to the recommendations of the Minorities sub-Committee.

Chairman: In a sense that is so, because, as I have pointed out more than once, everything depends on fitting in what we do to the whole scheme, and we have to trust each other until we see the whole scheme before us.

Sardar Sampuran Singh: What I am afraid of is that if that provision is not particularly mentioned it may be taken that this is passed by the sub-Committee unanimously, whereas it is, of course, subject to fitting in to the general constitution. I think the same provision which is made in connection with paragraph (*a*) should be made in connection with paragraph (*b*), and that we should say that this is subject to any recommendations which the Minorities sub-Committee may make about this, so that that sub-Committee, when considering these things, may not be prejudiced by the view that this has already been considered by this sub-Committee.

Mr. Wood: I am in complete sympathy with the remarks of Mr. Fazl-ul-Haq, but I am inclined to think he will yet find his

salvation in a properly constituted Second Chamber, which can, I feel sure, if properly constituted look after the interests of minorities. With all due deference to Mr. Fazl-ul-Huq, I think it is for him to see that when this question of Second Chambers comes up he is able to suggest a constitution whereby the minorities shall have a chance when subjects are referred to the upper Chamber from the lower which affect minority interests.

Chairman: Will Mr. Fazl-ul-Huq wait until we see if anything can be done for him on paragraph (*c*)?

Mr. Fazl-ul-Huq: Yes.

Raja Narendra Nath: The provision made in paragraph (*c*) does not really cover the idea which Mr. Fazl-ul-Huq has put forward. The representatives of the majority community will be selected by the Chief Minister, and the Governor will be bound to take a man who represents a minority community; but whether that man would be acceptable to his group is a different matter, and it is on that point that Mr. Fazl-ul-Huq is laying stress.

Chairman: We understand that, but we must trust the Chief Minister, on whom there is going to rest the responsibility for seeing that effect is given to the sense of paragraph (*c*). If that is in the constitution, he would be a very imprudent Chief Minister if he did not give most serious consideration to it.

Raja Narendra Nath: Sometimes there have been imprudent Chief Ministers.

Chairman: The next amendment is by Lord Zetland.

Lord Zetland: This is a small amendment which I desire to propose in line 10 of paragraph (*b*). Line 9 reads: "In the event of the appointment of a non-elected non-official, such person should be required by Statute" and so on. My proposed amendment is to insert after the words "such person" the following words: "unless already a nominated member of either Chamber."

The object of that amendment is this. We are proposing in a later paragraph that various minorities should as far as possible be given an opportunity of serving on the Executive. It is admitted that, in some Provinces at any rate, for some time to come Labour will be represented in the Legislature only by nomination. In those circumstances, if you wish to appoint a representative of a Labour to your Executive it would only be possible to appoint a nominated person.

With regard to the Upper Chamber, in the case of those Provinces where it is decided to have an Upper Chamber, it seems to me it would be very desirable that discretion should rest with the Governor to appoint a nominated member of an Upper Chamber in certain circumstances to the Ministry.

That power, of course, is freely taken advantage of in this country and is found to be of very great value. It will be within the recollection of the members of this sub-Committee that it was desired some years ago to appoint an Indian gentleman to the

Government in this country, the late Lord Sinha. It was not considered necessary here that the late Lord Sinha should become an elected member of Parliament. What was done in order to get over that? He was nominated a member of the House of Lords, the Upper Chamber.

A Member: He was created a peer first.

Lord Zetland: I quite agree. In other words, he was nominated by His Majesty to the Second Chamber, and he was then made a member of the Government. It seems to me that power, which exists in this country, ought to exist also in the case of the new constitution in India, and it is for that purpose that I propose to add these words.

Chairman: The amendment is to line 10, sub-section (*b*), under the heading "Appointment of Ministers," after the words " such person " to insert " unless already a nominated member of either Chamber." Does anyone desire to speak on that?

Mr. Jadhav: I am afraid, with all due deference to the noble Lord, I must oppose this amendment; it is bringing in an outsider by the back door, if not by the front one. If a man cannot get himself elected to the Legislative Council and if he is *persona grata* with the Governor and the powers that be, it will be quite easy for the Governor to nominate him to represent any interest. In fact, we have seen in the Council of Bombay a capitalist nominated to represent Labour!

Lord Zetland: You have misread my amendment which says " unless *already* a nominated member." He would not be nominated for the purpose.

Mr. Jadhav: He would first be nominated as a member of the Council and then taken into the Ministry on the strength of that nomination. I do not think this sub-Committee will give an opportunity to the Governor or to any of the authorities there to manipulate things in that way.

The analogy drawn by the noble Lord with regard to the raising of Lord Sinha to the peerage is not on all fours with what is suggested here. England enjoys a constitution under which His Majesty has been empowered to create Lords; but that is quite different from the nomination of a member to the Legislature. The nomination there is for a limited period, but the nomination here to the peerage is from generation to generation; it is not confined to a small number of years but is of a permanent character; and therefore His Majesty will take very great care that only fit and proper persons are raised to the peerage. In the case of the nominations now suggested, on the other hand, they will be at the most for four or five years, and therefore there will be no such responsibility. If this amendment is carried it will lead to complications and will strike at the root of the very principle of responsible government by elected members of the Legislature.

Mr. Chintamani: I regret that for the second time I have to oppose an amendment moved by the noble Marquess. It is discouraging to find that both the amendments he has moved to-day are of a restrictive nature, intended to whittle down the value of the scheme we are going to recommend. The sense of the whole scheme is that there should be responsible government in the Province and that a member of the Government should be a person in whom the people have shown their confidence by sending him as an elected member to the Legislature, or, if he is not when appointed an elected member, he shall be required within six months to get himself elected, or he will lose his office.

Instances have been known to occur in India—and the noble Marquess cannot be a stranger to them—of the Government nominating as members people who have received a sound beating at the polls. There will be nothing, if we are not careful, to prevent a repetition of such a scandal; we may have persons who are defeated at the polls nominated as members and then becoming Ministers. If that possibility is open there will be no real value in the scheme we are going to recommend.

Mr. Joshi: I am entirely against this proposal to appoint nominated members as Ministers, and incidentally I may say I am also against the other proposal that the Ministers should be nominated to the Legislature. My objection to the first suggestion is that all these proposals will create a sort of friction between the Chief Minister and the Governor, whenever the Governor attempts to bring in people who are not desired by the Chief Minister.

With regard to the very noble wish of Lord Zetland that interests like Labour should be represented on the Executive, I have absolutely no doubt that with his help and sympathy we shall frame a constitution by which Labour interests will be represented in the Legislature by election, and I am sure he will support the proposals I shall make in that behalf.

Sir Cowasji Jehangir: May I point out that the analogy which Lord Zetland has brought forward is correct only with regard to the Upper House, but nobody can become a Minister and be a Member of the House of Commons unless he is elected. The analogy only applies to the Upper House. Therefore, if any Province desires to have an Upper House, and it is also provided that there shall be nominated members, it will be difficult for us to consider whether those nominated members should be allowed to be appointed Ministers. But if in the Lower House you have nominated members becoming Ministers, there is no analogy for it either here or in India, for members to-day are not allowed to be appointed Ministers unless they are elected. That is the Constitution to-day.

Lord Zetland: Within six months.

Sir Cowasji Jehangir: Within six months, yes; that is another provision altogether. You want them to be made Ministers,

even though they are nominated. That is quite a different matter altogether. Of course in every Constitution, including this country, a man can be made a Minister, and then if he is elected to the House of Commons, well and good; while if he is not elected to the House of Commons, very often he has to give up office. If the analogy is to be any good it should be considered only when Second Chambers are being considered, and not at this stage I think.

Mr. Zafrullah Khan: Sir, with certain reservations, I support the amendment put forward by Lord Zetland. The first reservation is the provision that the nomination should not have been made in contravention of the recommendation which this sub-Committee proposes to make under paragraph 7 (*c*). That is one reservation. That means that the member shall have come into the Legislature normally already. Supposing the representation of certain interests in a particular Provincial Legislature is considered to be desirable, but it is found that it is not practicable, to begin with at any rate, to group them together into constituencies, and a certain amount of restricted power of nomination is still left to the Governor, those interests being represented by members who are nominated, there is no reason why our recommendation with regard to the Constitution of the Executive should definitely exclude this, that any such member who represents a particular interest in the Province as much as any of the elected members, should never form a member of the Executive.

Lord Zetland: That is the whole point.

Mr. Zafrullah Khan: Once he has been nominated to represent a certain interest, then, while representing that interest in the Legislature, he should be as much eligible to be a Minister as anybody. That is the first reservation. As a matter of fact, that is the only reservation; that in that sense the Governor should not have power to nominate anybody he chooses to begin with, and then have a tussel, as it were, with the Chief Minister to have his nominee included in the Cabinet. If the nomination has been in the normal course under that restricted power which the Governor should have, then such a member should be eligible to become a Minister. And if that reservation in course of time disappears, or it is not necessary to exercise it, naturally this provision will have to go; there will be no such member of the Legislature and there will be no possibility, therefore, of putting him in.

I want to make just one remark with regard to the analogy that has been discussed with regard to the Constitution in this country. Here, of course, one knows that the Prime Minister first decides that it is necessary to have somebody who is not already a member of the House of Commons or of the House of Lords, and then, on his recommendation, such person may be created by His Majesty a peer. That is the chief distinction. If the discretion be left to the Governor to appoint a person as a Member of the Legislature, merely with a view to having him

appointed a Minister, that certainly would not be in accord with the practice here, because then it would be the Governor who would desire to include that man in the Cabinet and would try to force him on the Prime Minister. Here it is the Prime Minister who, having decided that he wishes to have a certain colleague who has not been able to secure election to the House of Commons, approaches His Majesty with the request that he shall be created a peer.

Chairman: But I think the last point you have made will not come under this amendment.

Mr. Zafrullah Khan: No. I say, provided the amendment is restricted in such a way as is proposed under paragraph 7 (*c*), I have no objection.

Chairman: The amendment lays it down that unless he is already a nominated member, he cannot be nominated for the purpose. I only want to clarify the position.

Sardar Sampuran Singh: I also rise to support the noble Marquess, though on another ground. Though I agree with my friend that at least there has been an effort to make out this point, that because there may not be any Upper House in some of the Provinces, therefore this analogy of the English Constitution will not apply, personally I think this amendment is necessary just for this reason, because there will be no Upper House in some of the Provinces. That means that certain interests which may perhaps be very important might not be represented in the Lower House, simply because those people are supposed to be a little out of the common run of the people, and Provinces will be deprived of the benefit of their services on account of that reason. For example, there are landed interests, landed gentry, and so many other people who have a lot of experience; there are old servants, members of the legal profession and so many other people who may be very highly qualified to serve their Provinces, but just because they do not happen to be in touch with the general electorates have not succeeded in getting into the House; whereas, if there were an Upper House, they would perhaps be the fittest and most likely people to be in that Upper House. For the reason that there are not going to be Upper Houses in several Provinces, it is necessary that such nominated members should in some cases be appointed Ministers.

Sir A. P. Patro: Sir, I am constrained to oppose this amendment on the ground that it defeats the very principle of responsibility in the Provinces, knowing as we do how nominations are manipulated in the Provincial Legislative Councils and the class and quality of persons who are nominated.

Dr. Ambedkar: Are you opposed to nominations throughout?

Sir A. P. Patro: No, I support nominations. When we have got this vicious system, then I think this provision will lead to a great deal of mischief. It may be that an individual, however estimable he may be, is not able to come in by the direct door

of election; then he may be put into the Legislative Council by the indirect method of nomination. If a person is so important, so able, so representative, that he could certainly fight an election and come in by the direct door of election, if he is only nominated to the Legislative Assembly and takes his seat as a nominted member, whom does he represent? A ministry fromed with such a nominated member will be an anomaly, because there may not be harmony between the nominated member and the other members who are elected as ministers. Therefore, to avoid friction and to avoid trouble, it seems to me that the advantages are in favour of the omission of this provision of the amendment. The introduction of this provision to my mind will certainly lead to confusion and a great deal of friction in working the Constitution. If the nominated member is to be imposed on the ministry, then the ministry will be in a difficult position. If an unwilling partner is taken into the partnership, you know what the result will be in the end when the partnership is working. Therefore it seems to me prudent that we should not press this amendment.

Mr. Barooah: Sir, if this amendment is accepted I am afraid it will probably have the effect of creating a little anomaly. The words are: "In the event of the appointment of a non-elected non-official." Now that means an official who has been nominated by the Governor. Now if we add the words "unless already a nominated member," as suggested by his Lordship, it will be open to the Governor to appoint to the ministry either a person whom he has already nominated or whom he will nominate after the election and at the time of the formation of the ministry. I really cannot understand why a person who is nominated by the Governor at the time of the formation of the ministry should be required to secure election after six months, while all the men who have been elected only a few days earlier should not be required to secure any such election. I hope I am making myself clear. What I mean to say is that if these words are added it will mean that if the Governor appoints to the ministry a person after an election is over, after he has made his nominations, that man will have to secure election; but in the case of the other man, if he happens to be a member who has already been nominated by the Governor, his Lordship wants to exempt him from securing election. There is clearly an anomaly in this and I therefore oppose it.

Sir Chimanlal Setalvad: Sir, I am entirely opposed to this amendment. I agree with my friend, Sir A. P. Patro, that it strikes at the principle of responsibility. The whole suggestion in this behalf has been based on paragraph 7 (*c*) under which power is proposed to be given to the Governor to nominate certain persons if certain interests are not represented by the election. Now with regard to that, Sir, when we come to that clause 7 (*c*), I propose to move an amendment, which, if accepted, will remove the difficulty that Lord Zetland is feeling. As paragraph 7 (*c*)

stands, it runs in this way: " With the possible exception of a strictly limited proportion of non-officials who may in some Provinces require to be nominated by the Governor to secure the representation of groups unable to return their own members through the polls—." What I propose, Sir, is this: " If in the opinion of the Governor any minority or interest has failed to secure representation by election the Governor may direct the Council to supply the deficiency by co-option—."

Members: No, no.

Sir Chimanlal Setalvad : So that the interests left out will come in, not by nomination, but by co-option by the elected members of the Council. If a member comes in in that way, then there may be no difficulty; the moment he is co-opted, he stands on a par with the elected members, and then he may be taken into the ministry if the Governor so desires.

Sir A. P. Patro: You will give power to the majority party to co-opt their own creatures.

Sir Chimanlal Setalvad: I am only making a suggestion which you may accept or not accept; but if you do not accept what I am suggesting with regard to paragraph 7 (*c*), then I am entirely opposed to the proposal made that the Governor may nominate a member and that member may be taken into the ministry; that is striking at the root of the whole principle of responsibility and we cannot accept it.

Dr. Ambedkar: Sir, I should like to make one or two observations on the amendment which the noble Marquess has moved. I should like to state at once that the position which he has taken up seems to me to be absolutely logical. In this report we are going to provide that certain interests and minority groups may be represented by nomination in the Legislative Council. At the same time we are also making provision in this report that the Governor shall be given an obligation to endeavour to secure that his Cabinet shall be representative of all interests and of all minorities. Now, Sir, unless you provide that in the making up of this Cabinet, the Governor shall also have the right to include members who represent certain important interests by nomination, it seems to me that you are creating an absolutely illogical position. Either you must provide that there shall be no nomination to the Legislative Council at all, that all interests, no matter how minute, shall be secured by election to the Legislative Council, or, if there is to be nomination then you must provide that a nominated member shall have the right to be in the Cabinet if his colleagues are prepared to work with him on the principle of joint responsibility. There is no escape from one or other of those positions.

Now, Sir, it is stated by friends who are sitting on this side that if we accept this principle, that a nominated member shall be a member of the Cabinet, or at least that there shall be no ban upon him, it will run counter to the principle of responsibility. I really

cannot understand that position. These gentlemen who are saying it will run counter to the principle of responsibility are prepared to take the votes of nominated members. I am taking the report as it stands; I do not know what future amendments there will be. Supposing the report as it stands is carried, that there shall be certain members in the Legislative Council who shall be nominated, is it the position of these gentlemen that their votes are illegal? If those who form the Cabinet who are drawn from the elected portion of the House can validly use the votes of members who are nominated to the Legislative Council, if those votes can logically become the basis of the policy of a Government, I cannot see how a member who is one of that nominated group should not become a member of that Cabinet. I fail altogether to understand it. If, as I say, they can take these votes of nominated members and utilise them for their own purposes, I cannot understand what objection there can be to the inclusion of a member from the nominated group in the Cabinet. I therefore say the position of the noble Marquess is perfectly logical. It seems to me we have to make a choice whether we shall make a provision of the sort suggested by the noble Marquess in his amendment, or whether we shall agree to the other proposal which my friends say they will move at a later stage, that there shall be no nominative element in the Legislative Councils at all. Personally I would much rather have the whole Legislative Council elected with no trace of nomination at all. From that point of view I am not very much in favour of the amendment suggested by the noble Marquess; but if in this Committee or at any later stage nomination remains, then I think I shall have to agree with the noble Marquess and accept the amendment he has proposed.

Diwan Bahadur Ramachandra Rao: I must express my surprise at the speech to which I have just listened.

Dr. Ambedkar: You may, but you cannot have it both ways.

Diwan Bahadur Ramachandra Rao: He knows very well that even under the existing system nominated members are not eligible for appointment as ministers. Section 52 clearly lays it down that no minister shall hold office for a longer period than six months unless he is an elected member of the local Legislature.

Dr. Ambedkar: That is in the melting pot.

Diwan Bahadur Ramachandra Rao: During the last ten years my friend knows very well that important interests were represented by nomination; nevertheless, under the requirements of the Act passed ten years ago, all ministers were drawn from the elected portion of the House. It seems to me, Sir, that to go back now and appoint a nominated person as a minister would really be destroying the whole principle of responsibility and discrediting the Reform scheme which is contemplated as a whole. We are looking forward to the time when nominations will disappear, and even under the future Constitution the portion nominated will be so small that for practical purposes we should omit it for the present

and not stick to logic which has been expounded by Dr. Ambedkar. It seems to me that once you introduce a nominated minister who does not seek election, whatever you may do, this scheme is bound to be rejected by the country.

Mr. K. T. Paul: I must remind my friend, Mr. Ramachandra Rao, that in practice the Governor has secured representation of important minorities through nomination in a Cabinet by appointing them members of Government. Now that system is to go and we are to have only ministers.

Diwan Bahadur Ramachandra Rao: You mean members of the Executive Council?

Mr. K. T. Paul: Yes.

Diwan Bahadur Ramachandra Rao : That is another matter.

Mr. K. T. Paul: For instance, the community my friend represents has been brought into the Cabinet of Madras through the Executive Council. Similarly the Muhammadan community has been brought into the Cabinet in that way in Madras. But now we have to have a Cabinet consisting only of ministers. If that is so, my position is precisely that of Dr. Ambedkar. I am not in favour of any nomination; but if there is to be nomination and it is to be permitted as a practical necessity, then I do not see how it will be right to place any disability on the Governor appointing to the Cabinet nominated members.

Lord Zetland: Mr. Chairman, Mr. Chintamani was kind enough to say he regretted that once more he had to oppose my proposed amendment. May I say I share his regret, for I greatly value his support.

I have an uncomfortable feeling that Mr. Chintamani looks upon me with a certain measure of suspicion. He always seems to be looking in my amendments for something which is not actually there. This amendment of mine surely is a very simple one, and it is, as Dr. Ambedkar has pointed out, a perfectly logical one. My object in moving this amendment has been most lucidly explained both by Mr. Zafrullah Khan and by Dr. Ambedkar. It does seem to me to be a ridiculous position that you should have a member of a Legislative Council nominated but because, owing to certain circumstances to which we need not now refer, it is not practicable that he should secure election. It seems to me ridiculous to have such a man, equal in every other respect with every other member of the Legislative Council, and yet to say to him, " No, because you cannot secure election you shall not be eligible to be a member of the Government." It seems to me that that position is wholly illogical, and both on the grounds of expediency and of logic I do venture to ask the sub-Committee to accept this very small and innocuous amendment.

Mr. Joshi: I think it would be better to postpone this until the question of nomination is decided upon. If we agree not to have any nominated members, this will fall through.

Lord Zetland: If there are to be no nominated members this will be a dead letter, and it will not do any harm.

Chairman: As Mr. Garvin said yesterday, the House is divided. I do not mind putting in a note. There is really a serious division in the Committee. I do not want to settle these points to-day by taking a show of hands, if I can avoid it. I do not think that is the right thing to do. We might leave it over till a little later to see what the Report is like. Then we might agree upon some method of dealing with the question, either by following the precedent, which we have established, of a foot-note saying that a section of the sub-Committee were in favour of so-and-so, or by some other method. At the moment there is a clear division, and I think the best way is to postpone further consideration until we have gone through the Report. Then we will return to it. Is that agreed? (*Agreed to.*)

Lord Zetland: With regard to the last sentence in sub-section (*b*), I am not going to ask the sub-Committee to accept an amendment by the deletion of those last two and a half lines, because I realise that the sense of the vast majority of the sub-Committee is against me, and in those circumstances I do not wish to waste the time of the sub-Committee. I shall have to ask the Chairman just to say that I dissent from the last sentence.

Sir Robert Hamilton: I associate myself with that.

Chairman: We will have those two dissents noted in the Report. "(*c*). Group or communal representation in the Cabinet. The sub-Committee considers it a matter of practical importance to the success of the new constitutions that important minority interests should be adequately recognised in the formation of the Provincial executives. An obligation to endeavour to secure such representation should be expressed in the Instrument of Instructions to the Governor."

Mr. Fazl-ul-Huq: I propose to delete the words "to endeavour." Everything depends on the spirit. If the spirit is wanting, any endeavour will fail.

Chairman: Is there any objection to the deletion of these two words?

Mr. Chintamani: Yes. I have an amendment. I propose that the second sentence be amended. It now reads, "An obligation to endeavour to secure such representation should be expressed in the Instrument of Instructions to the Governor."

Chairman: One moment. Do you deal with the third line from the bottom—"An obligation to endeavour"—because if not I can take your amendment after that.

Mr. Chintamani: I will read my amendment, and then you will decide: "An obligation to endeavour to secure such representation need not, however, be expressed in the Instrument of Instructions to the Governor, as no Chief Minister can ignore any important minority in recommending this to the Government."

Chairman : I think, strictly speaking, that that comes later. The amendment now before the sub-Committee is the deletion of the words " to endeavour." It would then read, " An obligation to secure such representation should be expressed in the Instrument of Instructions to the Governor." The question before the sub-Committee is the deletion of the two words " to endeavour." Do you agree to that. *(No ! No !)* Very well. Does any one wish to speak against the deletion of these words?

Mr. Chintamani: I speak against the deletion of these words without prejudice to what I am going to say in moving my own amendment. Assuming that a mention of this obligation in the Instrument of Instructions is considered essential or desirable, then it is more prudent and less objectionable to retain the words " to endeavour " rather than to delete them. If you retain them the effect will be that the Governor and the Chief Minister will make every possible endeavour to secure a suitable representative of the minority communities, and if they should fail they will fail in spite of the best endeavours. If, however, you delete these words, any sort of man to represent the minority communities, whether he may or may not be in agreement with the general policy of the rest of the Ministers or whether he may or may not be able honestly to share the responsibility with them, will be appointed because of this obligation. The result will be administrative confusion. Therefore, of the two evils, the lesser will be to keep in the words " to endeavour."

Mr. Joshi: I think the omission of these words may be found in some cases to be inconsistent with the joint responsibility. If the Governor does not secure a man who is willing to share the joint responsibility with the others, he cannot be under an obligation to secure a man. If he is under an obligation to secure a man, he must also be under an obligation to make that man responsible, but certainly he has no power to make the man agree with certain others. Therefore, if these words are to be retained, it can only be an endeavour. He cannot be sure of securing a man who will be bound to work with others with whom he may not agree. Therefore, the words " to endeavour " must remain. I may also suggest a small amendment myself, namely, that the word "direction" should be substituted for the word " obligation "—" A direction to endeavour ".

Lord Zetland: May I say how happy I feel to think that at any rate on one occasion Mr. Chintamani and I are in full accord, though let me also add that the fact that I am in full accord with Mr. Chintamani necessitates, to my regret, that I should find myself at issue with a very old friend of mine, Mr. Fazl-ul-Huq; but I really think that the most you can require the Governor to do is to endeavour to secure this representation. Obviously it would be quite impracticable to say that in all circumstances he shall secure the representation of these different minorities. If you were to do that, the whole idea of appointing a Chief Minister in a province where parties rather on the lines of parties in this country have

developed, and consulting with him as to the appointment of your Cabinet, would be undermined and fall to the ground. Therefore, I feel I must support Mr. Chintamani in his objection to this amendment.

Sardar Sampuran Singh: I rise to support my friend Mr. Fazl-ul-Huq. The words " to endeavour " are proposed to be deleted not in order to weaken the hands of the Governor, but really to strengthen his hands. We are making this constitution with the view in front of us that eventually the Chief Minister will be making the Cabinet, and not the Governor. By making this provision in the Statute we are strengthening the hands of the Governor to interfere in such matters so as to get the minorities represented. If, on some occasions there is possibly a weak Governor, and he does not use his full influence in getting the minorities represented, and the other side say to him " You are only to endeavour; it is not binding on you by Statute ", he might give in; and for the future there might be a sort of custom established that the minorities might go unrepresented on the Cabinet. Therefore, when Mr. Fazl-ul-Huq asks for the removal of these two words " to endeavour ", it is really in order to strengthen the hands of the Governor, so that if at any time he is pressed by the people about him he will not have to give in, but will always be able to stand on the strength which he gains from the Statute to see that the minorities are represented in the Cabinet.

Chairman: I think you ought to reply now Mr. Fazl-ul-Huq. I think we have discussed this point sufficiently.

Mr. Fazl-ul-Huq: We are not proposing to frame our recommendations in the expectation of how things should be, but in recognition of facts as they are. It is extremely unpleasant that I should bring forward a suggestion of this character which seems to suggest that I am more or less reactionary in my temperament, and that I am trying to put spokes in the wheels of a complete democracy for which India is now striving. Only the other day my friend Sir Cowasji Jehangir remarked that the demands of the Muhammadans are extravagant.

Sir Cowasji Jehangir: I never said so.

Mr. Fazl-ul-Huq : If Sir Cowasji Jehangir knew how the Muhammadans and other minorities are sometimes treated by their own countrymen I do not think he would have gone so far as to make a remark of that character. I put it to Mr. Chintamani: the idea is to have a Chief Minister or Prime Minister who will make the selections, submitting the names to the Governor with a view that ordinarily these names shall be accepted for appointment to the Cabinet. Supposing Mr. Chintamani comes at the head of a group of 70 per cent. of the members of the Legislative Council, and he chooses to ignore absolutely the other 30 per cent., there is no doubt that in the Instrument of Instructions to the Governor there should be an endeavour to have the 30 per cent., or some one of the 30 per cent., represented, but if the spirit is

wanting any endeavour will be futile. It is with a view to providing for such cases—and such cases have occurred in many Provinces in which interests which ought to have been properly represented have not been represented at all—that I make this proposal. Considering it along with the other proposal which I have put forward, the net proposal comes to this: after the elections are over, the responsibility for appointing the Ministers shall rest with the Governor. What I am suggesting is that in the discharge of that responsibility the Governor shall not merely consult the person who may have the largest following, and shall not merely make an endeavour to secure the representation of important minority interests, but shall see that such minority interests are recognised. I therefore put to the Sub-Committee both of my amendments for its consideration and also for the consideration of the Conference.

Chairman: I must say I feel very strongly the view which Lord Zetland has put forward, that we are imposing a definite obligation here to endeavour to do this. He cannot pass this over lightly. Mr. Joshi was going to take out the word " obligation " and merely direct him to do this, but we are emphasising the point, unless another amendment is moved, and emphasising it very strongly. You cannot ask him to do the impossible, but normally not only would prudence dictate that he should do this, but he is under an obligation to make an effort to do it. I think we might accept that and leave the report as it is, for I think it represents the opinion of the majority of the members of the Sub-Committee at the end of the discussion which we had here. (*Yes!*).

Now we will take Mr. Chintamani's amendment to sub-section (*c*).

Mr. Chintamani: I desire to move an amendment to the sentence in sub-section (*c*) which reads " An obligation to endeavour to secure such representation should be expressed in the Instrument of Instructions to the Governor ", so that as amended it shall read " An obligation to endeavour to secure such representation need not, however, be expressed in the Instrument of Instructions to the Governor, as no Chief Minister can ignore any important minority in recommending names to the Governor ".

Chairman: I do hope you will not press that. I think the report correctly states the general attitude of the sub-Committee.

Mr. Chintamani: I shall have no complaint if you declare it lost, and I shall not take up your time, but I owe it to myself to move it. I hold it to be essential to carry out the proposition already carried by this sub-Committee, that there should be collective responsibility of Ministers to the Council. You should rely on the commonsense and the political sense of whomever the Governor may select as Chief Minister not to start by creating antagonism against his Ministry on the part of any important section of the Council; you must leave it to him to secure colleagues who, taken together, will command the largest assent of every section. It is on that that you should rely if you start on the experiment of

responsible government with any confidence and not with these artificial props. It is for these reasons that I move this amendment.

Sir A. P. Patro: I oppose the amendment. Experience suggests there should be such an instruction.

Several Members: I oppose the amendment.

Chairman : I think the opinion of the Committee is against the amendment.

Mr. Chintamani: I ask in that case that it be included in the report.

Chairman : Do please try to realise where your collective interests lie! if we fill up the report with these statements what will the position be? I will put it in if you insist, but I plead with you not to insist. (*Cries of assent*).

Mr. Chintamani: I do not insist on it, but I shall move it in the full Committee.

Chairman: Then, subject to the reservation which we made at an earlier stage, No. 5 stands part of the report.

The next is No. 6, Powers of the Governor.

Mr. Fazl-ul-Huq: What about the other amendment I moved?

Chairman : I thought the sense of the meeting was against you.

Mr. Fazl-ul-Huq: I proposed that in addition to the leader of the largest group, the Governor should invite the leaders of the other groups, and that there should then be a discussion, after which all the suggestions made should be considered by the Governor.

Chairman: I understood the sense of the sub-Committee was opposed to that. (*Cries of assent*). No. 6 is Powers of the Governor, and we come first to (*a*), his powers in regard to the legislature. (1) reads:

> " The Governor shall have power to dissolve the legislature; he may assent or withhold assent to legislation; he may return a Bill for reconsideration by the legislature, or reserve it for the consideration of the Governor-General."

I understand there is an amendment to be moved to that.

Sir Chimanlal Setalvad: The amendment I wish to move relates to this, yes. It says " he may return a Bill for reconsideration by the legislature ". I am entirely in agreement with giving him the power to return a Bill for reconsideration, but what happens at present is that he has the power, or at least he has taken the power in some Provinces, not only to return a Bill for reconsideration but to tell the Legislative Council in what form they should pass it and indicate the amendments he requires them to put in. That happened, I believe, in Madras in one instance.

Sir A. P. Patro: That was at the instance of the Government of India.

Chairman : Let us have the amendment read.

Sir Chimanlal Setalvad: I do not want the Governor to have that power. Let him send back a Bill for reconsideration to the Legislative Council, but he should not dictate to the Legislative Council what amendments he requires; it should be left to the Council to reconsider it and to suggest certain amendments which they may in the circumstances think desirable.

Chairman: But surely that is going to place the Legislature in a most difficult position? They will have a Bill sent back to them by the Governor for the consideration, but they will not be told why he has sent it back.

Mr. Chintamani: That is not the point of the amendment; he did not mean that. I should like to explain the position. The Governor at present has power to recommend to the Council that a Bill should not be passed in a particular form. The power is not exhausted by asking the Council to reconsider particular parts of the Bill; he can send it back to the Council with the recommendation that the Bill should be passed in a particular form, and say that otherwise it will be dead. My hon. friend the Home Member will remember that when there was tenancy and revenue legislation before the Council of the United Provinces in 1926, the Governor went against the wishes of the Council. The Council wanted the legislation in a certain form, and the Governor held a pistol at the head of the Legislative Council and said " Either you pass it in this form or it will be dead ". The amendment is designed to deprive the Governor of this particular power.

Sir A. P. Patro: What has been referred to is the Religious Endowment Bill in Madras, which was reserved for the assent of the Governor-General. The Governor-General in sending it back suggested certain amendments to make the Bill more satisfactory. With regard to the Malabar Tenancy Bill suggestions were also made, but they were not an abuse of the Governor's powers but were suggestions made by the Governor with a view to making the legislation more efficient and workable. There was no question of the Governor arrogating to himself any extraordinary powers not conferred by the Statute.

Sir P. C. Mitter : It is not suggested by my friend Sir Chimanlal that the power of the Governor to withhold assent should not be there. If that is not suggested—and I am sure it is not suggested—what will happen in regard to what comes under (2), legislation (i) affecting the religion or religious rites of any class or community in the Province and (ii) regulating any subject declared under the constitution to be a federal subject? There is also (iii) any measure repealing any Act or Ordinance made by the Governor-General. Unless the Governor can send this back to the Council and say " Unless you take note of certain points " and so on, there will be difficulty. The Governor has no right to impose anything on the Legislature, but the Governor should be able to

indicate certain defects and difficulties, so that I hope my friend Sir Chimanlal will not press this.

Sir Cowasji Jehangir: From 1921 to, I think, 1924 the Governor returned Bills for reconsideration, pointing out in ordinary language where he thought they might be amended. In 1924, however, a rule was brought into existence which enabled the Governor to send an Amending Act back to the Council for their consideration—an actual draft Bill, showing how the Bill should be amended if it was to receive his assent. That was the distinction and that rule to which Sir Chimanlal desires effect should not be given. The Governor should not have the power of sending an actual draft Bill to the Council; he should merely point out where he thinks the Council might amend certain sections of a Bill; then he would leave it to the Council to amend that Bill, if they chose to do so, according to his wishes, or to pass it again. He should not be allowed to send an actual draft amending Bill back to the Council; that is the point.

Chairman: No, but if he has had a Bill sent to him for his approval and he takes exception to it or to any of its provisions, surely he must indicate what the points are? The amendment I have in my hand clearly says " should not indicate." I say he must indicate.

Sir Ahmad Said Khan: He must indicate.

Chairman : I should think that in nine cases out of ten he would merely give to the Minister in charge his views as to why certain provisions should not be accepted, and they would probably try to come to an agreement as to what modification was necessary to enable the Bill to pass. But if the Bill merely comes back to them and they are left to guess what the Governor's objections are, they will be in a fog and not know what to do.

I should like again to ask you to remember that we are not drafting an Act of Parliament; we are not even drafting a constitution in detail, and in the existing Act there is such a provision now. I suppose when this constitution comes to be drafted and turned into an Act of Parliament, it will be seen what limits it is necessary to impose in connection with the return of a Bill for reconsideration. The intention of this amendment may be correct but I feel sure the wording is not; to say that he " will not indicate " in my opinion would never work.

(The sub-Committee adjourned at 12-55 p.m. and resumed its discussions at 4 p.m.)

Chairman: We shall continue the discussion upon the amendment proposed by Sir Chimanlal Setalvad.

Sir Chimanlal Setalvad: I am afraid there is some misunderstanding as to the object of my amendment, and possibly the way in which I drafted it has led to that misunderstanding. What I mean is this. Under the Rules as they stand at present, if the

Governor does not approve of a Bill passed by the Legislature he not only indicates to them the reasons for his disapproval, but is authorised to send to them a Bill in the amended form in which he wants it adopted, and no discretion is left to the Legislature to alter the Bill so drafted by the Governor or further to negotiate about the matter.

What is more objectionable is that the Rule says that if the Legislature refuses to pass the Bill as amended by the Governor and sent to them for acceptance, the Governor has the power to certify the Bill over the heads of the Legislature and it becomes law.

Sir A. P. Patro: Where is the Rule? Who made the Rule, and how was it made?

Sir Ahmad Said Khan: That can be done on the reserved side only.

Sir Chimanlal Setalvad: But now there is to be no reserved or transferred side.

Sir A. P. Patro: Therefore that Rule must go.

Sir Chimanlal Setalvad : That is what I am asking.

Sir A. P. Patro : These things are intended to be incorporated in an Act.

Sir Chimanlal Setalvad: This is a principle we have to indicate, namely that the present power in the Governor to certify a Bill if the Legislature does not accept the exact amended form he indicates must go. That is what I am seeking, and it may be provided in this manner.

Sir Cowasji Jehangir: It does not say anything about certification here.

Sir Chimanlal Setalvad: He must not be allowed to require the Legislature to pass the Bill in the exact form as amended by him, and on their refusal to do so certify the Bill and make it law. That is the amendment I wish to propose.

Chairman: That is not the amendment that was proposed this morning. The amendment proposed this morning, which I have read more than once, is that he shall not indicate the amendments he desires to be made.

Sir Ahmad Said Khan: I am sorry, but I cannot agree with the mover of the amendment. If we are to give the Governor power to send back any Bill to the Legislature, I cannot understand why we should not give him the power to indicate to the Legislature where the defect is and why he wants to send it back and what he wants in place of the section to which he takes objection.

Mr. Chintamani referred to me in his speech about the Rent Act in the United Provinces. It is true, as he said, that the Governor sent back the Bill, or a certain section of the Bill, against the wishes of the House, and it was carried. The real difference

is, however, that that was done on the reserved side, where the Governor had the power to certify. Now this will be done on the transferred side, and the Governor can send this back to the Legislature either with the consent of the Ministers or without.

If he is doing it with the consent of the Ministers I see no objection to it, because the Minister who is in charge of the Bill has every right to say that if the Bill is not going to be made law with this particular section in it he will not proceed further with the Bill. That is the right of every private member, and I do not see why a member of the Government should not enjoy the same right. But if the Governor is going to send a Bill back to the Legislature against the advice of his Cabinet, in that case he should remember the House has got definite power to reject it and not to pass it, and if any Governor is thinking of taking a strong line in that connection he should beware of the result, because it is quite possible that in these circumstances the Ministers would all resign, and if the House is unanimous on that section, or if there is a great majority in the House in favour of that section to which the Governor takes objection, the chances are that he will not be able to get any Ministers and the whole constitution will come to an end. I think that safeguard is quite sufficient against the Governor taking any arbitrary action.

Personally I think what is put down here is quite all right, and that there is no need for any change.

Dr. Shafa'at Ahmad Khan: Sir Chimanlal has in effect moved two amendments. The first dealt with the question of reconsideration by the Legislature of amendments desired by the Governor, but in the second amendment which he has just proposed he wants something quite different; what he wants is that the Governor should not possess the power of certifying any Bill. There has, however, never been any question of the Governor in the new constitution possessing any power of certification. No one has raised this point, and I am sure very few persons would support any power of certification being given to the Governor, so that the question of certification does not arise at all.

Chairman: He can only reserve it to the extent of putting it before the Governor-General.

Dr. Shafa'at Ahmad Khan: That is all, and that, of course, must be retained. The second amendment being thus disposed of, I come to the first amendment. This first amendment expects the Legislature to decide in a way contrary to that in which it has first decided, but it does not call on the Governor to give any guidance to the Legislature; that is what it comes to. Sir Chimanlal's proposition comes to this, that the Governor sends a sort of blank message to the Legislature, saying that he is displeased with a particular Bill, but he does not say how or in what way he would like the proposal amended or altered; he only says "Please reconsider this."

I should like to know what effect such a vague, ethereal and rather nebulous method will have on the Legislature. A Legislature which is told to reconsider has a perfect right to ask what it has to reconsider, on what lines it has to reconsider it and on what principles it is to reconsider it; but on these points Sir Chimanlal is perfectly vague and quite indefinite.

There have been two occasions on which this power has been exercised by the Governor in the United Provinces. In 1925 this power was exercised when the Governor sent back a Bill with his own suggestions, and all the suggestions recommended by the Governor were carried out by the vote of the Council.

In 1926 the Governor sent back the Agra Tenancy Bill for reconsideration and he suggested his own proposals. The Council again considered all those suggestions; it did not make the least alteration in the suggestions which had been made by the Governor and passed it as recommended by the Governor himself. If the suggestions of the Governor had been contrary to the wishes of the Legislature, the Legislature would have been perfectly right to have rejected his suggestions, and it could have said: "No, we are not going to carry out your suggestions." But, on the contrary, all the suggestions, all the amendments, of the Governor were carried out. I think, Sir, that the power which is now exercised by the Governor is very salutary and very useful, because, after all, even a Legislature is liable to make mistakes now and then.

Chairman: Now I think we had better have the position clarified. First of all, do I understand that you withdraw your first wording?

Sir Chimanlal Setalvad: Yes.

Chairman: Very well; then that is out of the way, and the discussion must now proceed on the new wording. I have not got a copy of the new wording yet. Could it be given to the Secretary while the discussion is going on?

Sir Chimanlal Setalvad: Yes.

Sir A. P. Patro: I think the previous speaker was speaking with regard to the powers which are now specified in the recommendation we make?

Dr. Shafa'at Ahmad Khan: That is it.

Sir A. P. Patro: But the power which Sir Chimanlal refers to is a power which is vested in the Governor and the Governor-General under rules made in the Legislative Department in 1924. The reason is this: before that there was doubt as to whether, in returning a bill for consideration to the Legislature, the Governor or the Governor-General could lay down the lines on which the amendment should be accepted by the Council. Instead of explaining that position, the Government of India took the matter into their own hands and, in returning a bill, said they would make certain suggestions conditionally, that unless the Legislature was able to accept those conditions, they would not accept the bill. That has

happened in regard to what was known as the Irrigation Bill in Madras in respect to which the Council refused to accept certain recommendations made in the Reserved Department. When it went up to the Government of India, they said: If certain conditions are accepted by the Legislature then the Government of India will accept the bill. But we refused to accept those conditions laid down by the Government of India, and therefore the bill could not be passed. It is a power that now exists with the Governor and the Governor-General to lay down conditions under which they will accept a bill when they send it back to the Council. When the Council refuse then the bill ceases to exist. That is the present position; but this position applies only in regard to matters arising out of the Reserved subjects; it does not apply to the Transferred subjects; neither the Governor nor the Governor-General has power of refusing in regard to matters transferred when the Ministers are responsible to the Legislature. This arises only in the cases of Reserved subjects; but now the distinction between the Reserved and Transferred subjects will be abolished. Therefore this amendment of Sir Chimanlal is quite unnecessary. It would be necessary only if the distinction between Reserved and Transferred subjects remained. That power is applicable only under the rule with regard to the Reserved subjects, and that distinction being sought to be abolished, the amendment of Sir Chimanlal seems to be quite unnecessary.

Sir Chimanlal Setalvad: I will not press it now.

Mr. Joshi: I am not moving an amendment I will simply express my view that now I am entirely against this clause, that he may return a bill for reconsideration by the Legislature. I feel, Sir, that it is enough that the Governor should have the power of either assenting to or dissenting from the bill. To give the Governor power to send a bill back for reconsideration really means that the Governor will have power to negotiate with the Legislature as to the details of the bill. If the Governor only has the power of dissenting or assenting, he will use his power very rarely; but if he gets the power of negotiating with the Legislature as to the details of the bill, he will use that power very frequently. I therefore feel that we should not give the power to the Governor to send back a bill for reconsideration.

Chairman: May I just read, for the benefit of the Committee, the position in the South African Constitution: the Governor-General may return to the House in which it originated any bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendations. Now the report stands as it is on this point. We have dealt with No. 1; we now come to No. 2, to which an amendment is proposed by the Maharaja of Darbhanga. It now reads: " It shall not be lawful, without the previous sanction of the Governor, to introduce any legislation (1) affecting the religion or religious rites of any class or community in the Province." Do I understand that you

want to take out the words I have just read, and substitute the words you propose?

Maharaja of Darbhanga: Yes, Sir.

Chairman: The words are: "It shall not be lawful to introduce any legislation affecting directly or indirectly the religion or religious rites or any class or community of His Majesty's subjects." You will now propose that amendment.

Mr. Zafrullah Khan: What is the difference?

Chairman: It takes away all power to deal with this matter; it says: not to introduce any legislation directly or indirectly affecting the religion or religious rites of any class or community.

Maharaja of Darbhanga: Sir, the reason of my moving this amendment is that I am convinced that it is entirely wrong that there should be legislation interfering in any religious matters. India is a country of different races, religions and creeds, and what one section may consider right is considered wrong by another section. Therefore I do not think it right to make a hard and fast rule in matters of religion, which means everything to a great majority of people. It touches the core of their heart if they are hindered in any way in religious matters. Sir, I do not, for a moment wish to suggest that there is no room for reform. Things have crept in which are attributed to religion, but which may be quite contrary to the religion itself, but I submit it should be left to the leaders of the community itself to say what changes shall be effected.

Chairman: Yes, but will you please direct yourself to pointing out the difference between the report and the amendment you are proposing. All you are now telling us is admitted in the Report itself. We clearly laid it down that it shall not be lawful without the previous sanction of the Governor.

Maharaja of Darbhanga: I mean to say, religious matters should not be liable to legislation even with the sanction of the Governor.

Chairman: That is the point to which I want you to address yourself.

Sir A. P. Patro: There is nothing in the amendment.

Maharaja of Darbhanga: Then I would suggest that in this particular case the Governor should not give his sanction without consulting the leaders of the communities.

Chairman: I cannot see him doing it without consulting some one, unless he is out for trouble, and serious trouble.

Maharaja of Darbhanga: At times the ideas and the views expressed by some of the leaders have not been considered; for instance, in regard to some of the Bills which have been before the Council, the views of some of the leaders of the Society were not at all considered, and legislation contrary to their wishes was allowed to be brought into the Council.

Chairman: You will see the point here is that the Cabinet have got to get the sanction of the Governor before they can interfere in any way. Surely in a matter like this, the Governor, for the tranquillity of his Province, is going to see to it that his Cabinet is not remain in operation for more than six months without the religious convictions of any section of the community; at least I should imagine so. Now, do you propose to press this amendment?

Maharaja of Darbhanga: No, I do not.

Chairman: Very well. Then the next is on (*iii*) by Sir Chimanlal Setalvad.

Sir Ahmad Said Khan: I have an amendment with regard to affecting the religion or religious rites of any community in the Province. My idea is that a sort of note should be attached to clause (*i*) and the note should run as follows: " If any community submit a memorial to the Governor or the Governor-General, as the case may be, signed by two-thirds members of that community in the Legislature, then he should be required to give his formal decision whether any Bill does or does not affect the religious or social usages of that community, and to withhold his consent if he thinks that the Bill affects the religious or social usages."

Raja Narendra Nath: You use the word " social " as well?

Sir Ahmad Said Khan: Yes.

Chairman: You have moved your amendment; will you speak to it?

Sir Ahmad Said Khan: I beg to move that this explanation should be added to it. This will perfectly serve the purpose which was in the mind of the Maharaja of Darbhanga. The effect of this will be that whenever any Bill or any measure is brought before the Council, if any community take objection to it, then if two-thirds members of that community sign a memorial and submit it to the Governor, he will have to give a formal decision, first of all, as to whether that thing or that Act or that measure does or does not affect the social or religious usages of the community concerned; and if it does, then he will be empowered to withhold his consent. I think this will cause full satisfaction to the Maharaja of Darbhanga and other members of the minority communities who may be afraid that the majority community may do something which affects their religious usages.

Chairman: But do I understand that though you will have representation in the Legislature, you desire, as members of the Legislature to sign a memorial to the Governor going over the heads of the Cabinet; is that the idea?

Sir Ahmad Said Khan: Yes.

Chairman: Well, that is rather an extraordinary thing in a representative Chamber.

Mr. Joshi: Sir, I am not only against this amendment, but I am against this part of the Report. I feel that in India social reform has been delayed by the attitude taken up by the British Government, which has been an attitude of neutrality. If we are going to put in a clause now that no legislation shall be introduced unless a Governor, who may be very reactionary in social and religious matters, approves of that legislation, then we are not going to get any social reform in India at all; it will depend on the Governor being a social reformer.

Chairman: You will excuse me, Mr. Joshi, but we are only dealing with this one which affects religious rites.

Mr. Joshi: Yes, I am talking of religious rites, because unfortunately in India every social custom has got some relation to religion. I will give you an instance; there is the question of taking water by the depressed classes from a public well. It is quite possible that some people may say that this affects their religion, and if a Governor happens to be a Governor of a reactionary mind, there can be no legislation on that point at all. It is a dangerous thing to give such a power to a Governor who delays social reform. The British Government has done sufficient harm by taking up an attitude of neutrality, and we should not now give power to the Governor to delay social reform any longer.

Sir A. P. Patro: The last Act of the Government of India with regard to marriage restriction was well supported and backed up by the Government. If social legislation emanates from the non-officials and is placed before the Legislature, then the attitude of the Government of India will be known, and in every case in which a social measure has been placed, the Government of India and Provincial Governments have supported it so far. In my own Presidency two such measures were placed, one with regard to the depressed classes and the other with regard to endowments. Those measures were at first non-official measures but they received the full support of the Government. Therefore it is wrong to say that the Government opposes any measure which is for the social advancement of the people. In the proposal which has been made I am sorry that social measures have been included. If social measures are withdrawn and it is confined to religious matters, then, as was proposed in the Conference, if two-thirds of the members of a Legislature vote against any particular measure as affecting their religion, then it is for the Governor to consider whether he will give permission to introduce it. But I am not able to understand how this proposal is put, namely, that if a memorial signed by two-thirds of the Legislature is placed before the Governor, the Governor shall take cognisance of the matter. It is a matter of which the Legislature will be completely seized; the Legislature has the power to deal with it because it is a representative assembly consisting of representatives of all classes and communities, and if two-thirds of that Legislature say that a measure is opposed to the religion of religious communities, then it is for the Governor to consider. As it is proposed, namely that it should be memorialised, that seems to be a very

cumbrous procedure. If the proposal is that if two-thirds of the members affected by the particular measure pass a resolution in the Council, then the Governor shall not give his consent, that I could understand as a constitutional position.

Chairman: Do not let us get at cross purposes. The words are: "Two-thirds members of that community in the Legislature." That can be interpreted to be two-thirds of the representatives in the Legislature, but I understand that is not what you mean?

Sir Ahmad Said Khan: Two-thirds of the members of that community in the Legislature which is affected.

Chairman: Not two-thirds of the Legislature?

Sir Ahmad Said Khan: No, Sir.

Chairman: I was going to say that if two-thirds of the Legislature were opposed to it, they would not pass it, and therefore the point would not arise. It is a question of wording. I want to get your mind and then the wording can be put right. I understand what you want is that if two-thirds of what might be a minority in a Legislature feel that this is an encroachment upon their religious rites, you want them to have the power to petition the Governor.

Sir Ahmad Said Khan: Yes.

Chairman: Now we have got clear what it is. Is there any objection to that course being adopted on a purely religious question, because the word "social" has been deleted. Is there any objection to that being done in some form if we get the right words, if we confine it solely to the religious question?

Mr. Zafrullah Khan: There would be no objection in principle to giving that guarantee, but we had better be clear as to what we are about. The proposal in the Report is that no measure which affects the religious rights of any class or community in the Province shall be introduced in a Provincial Legislature unless its introduction has been previously sanctioned by the Governor. Let us stop there and see whether that provision affords sufficient protection or not. If it does I do not think it would be necessary to put into our Report anything to the effect that certain things shall be lawful to be done by a certain proportion of the members of the Legislature. Supposing a measure is introduced into the Legislature without the previous sanction of the Governor which it is felt affects the religious rights of a particular community or class, and supposing that this clause stood as it is, what would be the remedies open to members representing that particular community or class? It would be for them to raise an objection first in the Legislature itself when the measure was sought to be introduced, to the effect that it was *ultra vires* the powers of the Legislature to consider the measure at all, inasmuch as it required previous sanction, and previous sanction had not been obtained. In the first place the powers of the President would come into play. He would have to consider the measure, and he would have to give a ruling as to whether in his opinion the

measure did or did not affect the religious rights of any community or class in the Province. If he ruled out the measure, it would go. If he did not rule it out the measure would be taken into consideration on its merits: members would still be free to vote on it from the point of view of whether or not it affected the religious rights of certain communities, and those concerned might be able to persuade a bare majority in the House that it was not desirable to pass the measure. If that happens at any stage, the measure goes. If, in spite of all this, it is passed into law it will be extremely probable that it is not a measure of the kind with regard to which previous sanction is required; but if, nevertheless, it has been passed, then it goes up to the Governor for his assent. If he in the mean time has been persuaded that it is one of those measures which requires his previous sanction, he can interfere and refuse to assent. Supposing, nevertheless, that he does assent and it becomes an Act: it is open to anybody to whom it is sought to be applied to go to court and raise the question that the measure is not a valid measure—that it is *ultra vires* the powers of the Legislature inasmuch as previous sanction was required and has not been accorded. That is what happened with regard to fiscal measure in my own Province. A certain tax was imposed by the Provincial Legislature without previous sanction. Some people paid the tax under protest and afterwards sued for the recovery of the tax, and the court gave a ruling that it was *ultra vires* the Legislature, and the matter was set at rest. I do not object to the spirit of the amendment, but I think, with all respect, that it is unnecessary.

Chairman: The only point which I think we have to consider now is as to whether we are going to add to the end of this sub-clause (*i*) words which will enable a petition to be presented by two-thirds of any minority claiming that their religious rights are being encroached upon. I do not know whether we can dispose of it now. It is not a very vital matter. Nobody likes to have their religious convictions trampled upon. The only question is whether in the majority of cases, if anything of the kind were attempted, the Governor himself would refuse to allow the Legislation to be introduced. It says it shall not be lawful to do so without his consent, and that seems to me to be a very adequate protection. If we are afraid that the Governors will not do their duty in this respect, there is still the fact that you have a unitary Cabinet, and the Cabinet itself with the Chief Minister is not going to allow these disturbing questions to be brought in unnecessarily. There you have a second safeguard. Now you are wanting to impose a third safeguard. It does seem to me that you are not going to begin by trusting each other very much in these matters. Do you wish to press this?

Sir Ahmad Said Khan: You might put it to the sub-Committee. If they do not wish to have it, well and good. Personally I thought it was necessary. There is nothing new in it. It has been laid down that two-thirds of any minority community should be able to stop any law which affects their religious susceptibilities, but if the members of the sub-Committee are against it, well and good.

Chairman: I think the sense of the sub-Committee is against it, and I rule against it. The next amendment is by Raja Narendra Nath.

Raja Narendra Nath: I wish to suggest that in (*ii*) it should read " regulating any subject declared under the constitution to be a Federal or Central subject." (*Agreed to.*) Then in (*iii*) I suggest it should read " any measure repealing or affecting any Act or Ordinance made by the Governor-General." (*Agreed to.*)

Sir C. Setalvad: That assumes that the power of promulgating an Ordinance is still to be kept with the Governor-General? It may or it may not be; that will depend upon what is done hereafter. Therefore I would insert the words " Ordinance made by the Governor-General in Council, if he is given that power."

Chairman: He must have the power. Now let us turn to " (*b*). Conduct of business."

Sir C. Setalvad: The clause runs thus: " The Governor shall be placed in possession of such information as may be needed by him," and so on, and the second part says that the Chief Minister should preside, but that on any special occasion the Governor may preside. You have to take the two together. What I submit is this—that in the first part instead of having the words " The Governor shall be placed in possession of," we should have the words " The Governor may call for from the Ministers such information as he may need." The reason for my suggestion is this. If the Governor is to call for any information, he must call for it from the Ministers and not, as happens at present, from the Secretaries. At present the Secretary of a Member or a Minister has direct access to the Governor, and he goes to the Governor when he disagrees with his Member or with his Minister. Therefore if any information is to be called for by the Governor, it should be called for from the Minister. With regard to the second clause, I do not want the Governor to preside at the meetings of the Cabinet.

Chairman: Take the first one first. The point is this—that you object to his being placed in possession of information by any other person than the Minister.

Sir C. Setalvad: By the subordinates of the Ministers—the Secretaries, as at present.

Chairman: I have had experience of this. I have often sent my Chief Secretary to see His Majesty and to impart information. It is unnecessary always for me to do it.

Sir C. Setalvad: As it stands at present the Governor may directly call for the Secretary and get information. Further, the Secretary of his own initiative, if he differs from the point of view which the Minister takes, goes to the Governor, and has access to him under the rules at present. I suggest it should read " The Governor may call for from the Ministers such information as may be needed by him for the discharge of duties imposed upon him by the constitution."

Chairman: One version is " The Governor shall be placed in possession," and the other version is " The Governor shall call for." That is the question before the meeting.

Sir A. P. Patro: I believe what Sir Chimanlal means is this. There is a suggestion in the Simon Commission Report that there should be a Cabinet Secretary who should communicate all that takes place in the Cabinet meetings to the Governor. I believe Sir Chimanlal is attacking that position that there should not be a Cabinet Secretary who should be exclusively under the control of the Governor, keeping the Governor informed of what is going on in the Cabinet.

Sir C. Setalvad: Not only that, but at present the Secretary of a Minister or of a Member is entitled to go direct to the Governor if he disagrees with the view of that Member or Minister in any particular matter.

Sir A. P. Patro: That is a matter of rules of business. The rules of business are made by the Governor and the Cabinet. If the Cabinet is strong enough to be able to place its views before the Governor, it can make arrangements as to how the Governor should be placed in possession of them; but we must be honest, and say that we do not approve of the recommendation of a Cabinet Secretary who shall be the connecting link between the Cabinet and the Governor. It is considered undesirable by us that there should be an official who should be the link between the Cabinet and the Governor. The Governor could at any time be at liberty to call for information from his Ministers. The rule to which Sir Chimanlal refers is this: at present, if there is a difference between the Minister or Member and the Secretary, the Secretary can go direct with the file and place it before the Governor and discuss the matter over the head of the Minister or Member. If that rule of business is to be altered, it is only a matter of procedure. It is not necessary that it should be in the Statute.

Sir Cowasji Jehangir: This is not quite such a detail as is imagined. Under the present constitution the Governor has the right of making rules, and he has made rules. I am not contesting that point. The point is that under the Act itself a Secretary has got statutory powers—

Chairman: Under which Act?

Sir Cowasji Jehangir: The Government of India Act.

I want to make it clear what the position is. The position is that the Governor shall get all the information he requires in order to exercise his statutory powers, and that information should be obtained through the Ministers and not through any other agency over the heads of the Ministers. That is the point to be cleared up—nothing else, because it is rather vague here, if you read it: " The Governor shall be placed in possession of such information as may be needed by him." It is not quite clear as to how he shall be placed in possession of that information, and the matter is rather complicated by suggestions already made by certain Commissions.

and Committees which have reported on this matter. Therefore, in order to make the matter perfectly clear I think that if the words " through the Ministers " were inserted, no harm would be done, and the matter would be made perfectly clear.

Chairman: " The Governor shall be placed in possession by his Ministers of such information."

Sir Cowasji Jehangir: That is quite sufficient.

Lord Zetland: On that point I think you ought to give the Governor a certain amount of discretion. If the Governor wishes to do so why should not he consult, say, the Director of Public Instruction on an educational matter, or the Sanitary Commissioner or the Director of Public Health, whatever his designation may be, in the same way? After all, there are many technical questions which arise in connection with, say, public health matters; and it seems to me that you would be unduly restricting the Governor if you were to say that in no circumstances was he to invite the Director of Public Health to come and discuss a public health matter with him. The Governor must have a little elasticity.

Sir Ahmad Said Khan: As far as this question is concerned, I think information should be supplied to the Governor. The only point is this—that some of my friends think that certain information should come only through Ministers, and through nobody else. If this is the position, I beg to submit that further on, in Section No. 2, dealing with the relations of the Governor with his Ministers, it is proposed to give him certain special powers for the protection of minorities as well as for the maintenance of law and order, where he will be placed in a position even to override his Ministers.

That is the proposal, that even when he wants to override the Ministers he should get all the information from the Ministers? (*Cries of assent.*) Then it will be impossible. (*Cries of dissent.*)

Sir Cowasji Jehangir: The intention is not that the Governor shall not be able to call for the advice of any head of any department; the point is that at present he has the right to call for heads of departments over the heads of the Ministers and take their advice independently of the Ministers. At present, as Lord Zetland knows, if one Executive Member of Government wants information from another department he does not call for it directly; he cannot; he goes to the Member or writes to the Member in charge and says " I want such and such information; will you kindly ask so and so to supply me with it." The Member writes a letter saying " Please inform the Hon. Member of the facts and give him all the information he requires." That is the present position, and even with the Governor that is what happens. If the Governor wants any information from a department he writes to the Member and says " I want such and such information; please see that I get it." The Member cannot give the information, nor can he go himself; he generally sends the head of the department, who goes and supplies the Governor with all the information.

The point is that, to be in keeping with the whole idea of the future constitution, the Governor should not have the right of consulting the head of a department without the knowledge of the Minister. After he has got all the information he may discuss it with the Minister, and disagree with or overrule the Minister; but the constitutional point should be established that the heads of departments should be under the Ministers with the Governor at the top, and that the Governor should not be in direct communication with the departments and give orders to the departments without the knowledge of the Ministers. That is all that has to be provided against.

Mr. Joshi: I only want to oppose the suggestion made by Lord Zetland that the Governor should, without the knowledge of the Ministers, be able to deal with the officers of the Government. I think it is wrong practice for any Governor to do such a thing, and it should not be allowed.

Mr. Paul: On the other hand, Sir, I think it is extremely necessary that the Governor should be accessible to all sorts of people. He should be accessible to the public and he should be accessible to the heads of departments. I think the difficulty in regard to this draft arises because of this. What we want to prevent is the habitual access that the Secretaries to Government have by right to the Governor over the heads of the Ministers, not the access that the Governor has, or can have, to the Secretaries or heads of departments. It is the other way round which is so humiliating, I understand, to the Ministers, who are the superiors of the Secretaries.

I think this should be redrafted. So far as I recollect, this particular point was not discussed last week; what was discussed was the recommendation of the Simon Commission about a Secretary to the Cabinet. In trying to summarize the debate on that question this point has come up. I may be wrong—I speak subject to correction—but I think that is why we are not getting at the question in the right way. It is right that the Governor should be placed in possession of the position by his Ministers, but he should have access to anyone on whom he likes to call. It should be made clear that the recommendation of the Simon Commission to the effect that there should be a Secretary to the Cabinet who by right should have direct access to the Governor irrespective of the Cabinet is not supported by this Sub-Committee. If that were made clear in a straightforward manner I think it would satisfy us all.

Chairman: That point has not been raised.

Mr. Paul: It was raised last week.

Chairman: There is an amendment before the sub-Committee, and a suggested amendment to that amendment. The amendment is that the section should be altered to read: " The Governor may call for such information from the Ministers and may at any time summon the Ministers to confer with him." The other suggestion is that instead of having that amendment we should make it read:

" The Governor shall be placed in possession by his Ministers of such information as may be needed by him for the discharge of duties imposed upon him by the constitution." I do not know whether we could all agree to accept this last suggestion, with the words " by his Ministers "?

Dr. Shafa'at Ahmad Khan: No.

Several Members: Yes.

Lord Zetland: I should prefer to leave the Governor rather wider discretion. In Bengal before the present reforms came in, and when Public Health was administered by a Member of the Executive Council, I constantly called the Director of Public Health to inform me on technical matters and discussed with him the best means of dealing with the prevention of malaria and other things of that kind. That was of the greatest advantage not only to me but also to my Government, because then when any big question of Public Health came before the Government I was able to discuss it fully informed of the subject. I really do think that it would be a little unfair to a Governor to lay it down that he was not to call in the head of a department in that way in order that he might discuss these questions with him.

Chairman: I really do not think this is quite so serious as may be supposed. Even if we were to take the amendment as I last suggested there would not be anything to prevent him seeing the heads of departments. We have to do it in these days. We do not go ourselves to explain a good many technical matters if information is required by the Palace; we send a chief official, but we usually know when it is being done, either before or after.

Sir Cowasji Jehangir: That is the point.

Chairman: Shall we say this: " The Governor shall be placed in possession, with the knowledge of his Ministers, of such information as may be needed by him for the discharge of the duties imposed on him by the constitution "?

Several Members: That is all right.

Chairman: I think we can agree on that. (Assent.) I have another amendment under (2); it is suggested that the words " but on any special occasion, the Governor may preside " should be omitted.

Sir Chimanlal Setalvad: I suggest that instead of that we should say: " The Governor may at any time summon the Ministers to confer with him ".

Sir A. P. Patro: What is the reason? Why not leave it as it is?

Sir Chimanlal Setalvad: The difference is very great. When the Ministers meet, the Chief Minister and not the Governor should preside, but the Governor can summon the Ministry to meet him at any time.

Chairman: I do not think there is anything between us. This was intended to provide that if an occasion arose which necessitated

the Governor meeting the whole of his Ministers he should be able to take the Chair. I am quite sure that if the Governor walked into this place now I should vacate the Chair and let him take it. That is the position; it is to deal with special occasions. We have already laid it down that in all normal occasions in the conduct of an ordinary Cabinet the Chief Minister will preside, but when the Governor comes specially to meet all his Ministers it is only right that he should preside. Sometimes, no doubt, he will say: " You keep the Chair; I have only one subject, and I shall not keep you more than a few minutes." That is how the thing will work out. Why should we disturb this? I drew up this part of the report very carefully. It says that this is only to be on a special occasion; it must be on a special occasion. It also says that the Governor *may* preside; it does not even say " shall " or " should ".

Sir A. P. Patro: That is quite all right.

Mr. Joshi: It is quite all right.

Chairman: I hope our friend here will be prepared to accept what is in the report. (*Assent.*)

On the following page, Sir Chimanlal has another amendment, to sub-section (2), at the end, to leave out the words " and the safeguarding of the safety and tranquillity of the Province ".

Sir Chimanlal Setalvad: That goes along with what I want to insert in (*d*) on the same subject.

Chairman: Will you please explain it to the sub-Committee?

Sir Chimanlal Setalvad: Yes. I accept the clause as it stands until we come to the last sentence, which says: " These duties shall include the protection of minorities "—I am not disturbing that— " and the safeguarding of the safety and tranquillity of the Province ". Those last words are much too vague and wide; you can include almost anything in them, and I therefore propose to take them out and to put a provision in the next clause, which deals with Emergency Powers, in this form: " There shall be vested in the Governor suitable emergency powers to deal with any serious disturbance of the public peace and to carry on the administration in the event . . . " and so on. I define it more by saying: " to deal with any serious disturbance of the public peace "; that is more definite than talking about " the safeguarding of the safety and tranquillity of the Province ". Any person may say that any particular thing will disturb the tranquillity of the Province, because the expression is so vague. If, on the other hand, you put in these words about serious disturbance of the public peace, then we know where we are. The wording with regard to a breakdown would remain. I am merely replacing the provision about the safety and tranquillity of the Province by something more definite in the next clause.

Sir A. P. Patro: The provision with regard to safety and tranquillity is to be found in the existing Act, for instance in the powers in Section 72D.

Sir Chimanlal Setalvad: That is exactly the reason why we want to change it; the words are so vague that you can bring in anything under them.

Sir A. P. Patro: I want to know where and how cases of the abuse of this power have occurred. Have there been any instances, within the knowledge and experience of any member here, where this provision with regard to safety and tranquillity has been found to be so vague that advantage has been taken of it and the powers given under it abused? There would be some point in knowing definitely of any instances where this has occurred. Personally, I think we are quite safe in using these words.

Chairman: I attach very great importance to this as it stands in the report, and I hope this amendment will not be pressed.

Sir P. C. Mitter: It sometimes happens that after an event it may be far more difficult to have tranquillity and safety. I do not see any particular objection to these words, and if Sir Chimanlal apprehends any particular objection I should like to know what it is.

Chairman: Is this amendment pressed?

Sir Cowasji Jehangir: I should like to raise an important point on this, and to point out to my friends Sir A. P. Patro and others that at present the Governor is a member of the Government responsible for the Home Department along with the Home Member. He is responsible for all the reserved departments. He is in daily touch with the Home Member and is responsible in effect for the department, and therefore he has never had occasion to use the powers given to him under the Act for safeguarding the safety and tranquillity of the Province, for he himself has been responsible for it.

But when law and order is transferred subject and is under a Minister he will be given overriding powers. He will naturally have powers of consultation with the Ministers; those powers will continue; but then he will be given overriding powers, over and above the heads of his Ministers, and therefore they ought to be more carefully defined. Under what circumstances, if he disagrees with his Ministers, shall he set aside his Ministers and take action himself? We are trying to define under what circumstances he should do that, and therefore I can visualise at present only two main reasons for his overriding the powers of the Ministers.

The first is a breakdown of the constitution, when the Ministers go and he must take full charge of the Government and carry on. The second case is where such a situation arises that law and order has completely broken down and the Minister is not able to cope with the situation. Then he sets aside his Ministers and takes charge of the Government. Those are the two occasions on which the Governor should have overriding powers over his Ministers, and they should be properly defined.

At present they are placed under two heads. You will find them in clause (2) and also in paragraph (*d*), Emergency Powers. In the paragraph dealing with Emergency Powers he has the power of

overriding his Ministers only in the case of a breakdown in the constitution, while safeguarding the safety and tranquillity of the Province is put in another paragraph. If someone wished legally to construe this document it might be said that the Governor has not overriding powers with regard to safety and tranquillity, because they are not referred to in the provisions relating to emergency powers.

Both those provisions should be dealt with as emergency powers. The Governor, although he will not be responsible for the department, will be in constant touch with the Minister when it is likely that dangerous circumstances are going to arise, but if after they have arisen the Ministers have not been able to cope with them, the Governor must have emergency powers to override his Ministers. I would therefore suggest that further consideration be given from that point of view to the proposal which Sir Chimanlal has just placed before the sub-Committee.

I would take this provision out of paragraph (2) and put it under the emergency powers, not only for the safety and tranquillity of the Province but for the safety of India. I think, Sir, that the wording Sir Chimanlal has suggested is far better, if I may say so with due respect, than the one which has been placed before us in this document for our consideration. I would therefore leave out this wording about the safety and tranquillity of the Province, which may mean undue interference at every step, and give the Governor the emergency powers he requires. Under the constitution he will always consult the Ministers and advise the Ministers and keep in touch with them, but if an emergency arises when the Ministers can be no further use to him he takes the power into his own hands, sets aside the Ministers and takes whatever action he considers necessary. I think on consideration the proposal made by Sir Chimanlal will be found better than the one placed before us in this document.

Lord Zetland: Surely the emergency powers refer to the case where there has been an absolute breakdown of the constitution.

Dr. Shafa'at Ahmad Khan: That is it, yes.

Lord Zetland: Everybody agrees that when that happens the Governor must have clearly defined powers and must be in a position to take hold of the machinery and keep the administration going. That is what is meant by an emergency. Apart from that, it is proposed that in certain circumstances affecting the rights of minorities and the protection of minorities and the safeguarding of the safety and tranquillity of the Province he should have the right of taking action in disagreement with the views of his Ministers. It might be a case of prohibiting a big demonstration. Suppose a big communal demonstration was about to take place; the Ministers might be unwilling to advise the Governor to prohibit the demonstration; the Governor might consider that circumstances were such that it was essential in the interests of the safety and tranquillity of his Province that the demonstration should be prohibited; in those circumstances, and in those circumstances only, he would

step in and issue an order that the demonstration was not to take place.

Sir Cowasji Jehangir: That would mean daily interference.

Lord Zetland: No, not daily interference; we do not have that sort of thing every day. I only remember two serious cases in five years, but they were very important ones.

Sir Cowasji Jehangir: That would mean taking over the administration.

Lord Zetland: No, not at all.

Chairman: Do I understand there is now a division as to whether we leave in the words as to safeguarding the safety and tranquillity of the Province? I think one Member suggested that these words might come in under emergency powers. I have got a suggestion to make presently, but I should like to dispose of this first. I do not know whether all concerned feel that these words should come under the emergency powers.

Members: No.

Chairman: Or whether they should remain as they are?

Members: As they are.

Chairman: Remain as they are. Now, does any one oppose their remaining as they are?

Members: Yes, it is opposed.

Sir Cowasji Jehangir: Yes, I know it will not work.

Chairman: I do not want to test the meeting. You see there are three or four who say they are opposed to it.

Mr. Barooah: I oppose it.

Sir P. C. Mitter: I would like to keep it as it is; I think it is safer.

Chairman: "This duty shall include the protection of minorities and the safeguarding and tranquillity of the Province." You do not feel that he should have that duty imposed upon him?

Members: As it stands.

Chairman: As it stands?

Members: Yes.

Chairman: The majority seem to favour that. Now may I make a suggestion? We have dealt in the latter part of this last section with administration, legislation or finance. I do not know whether these words should come in twice, but it has been suggested to me that it might be advisable to take the words out there and put them in under the special and emergency powers in the following manner: "There shall be vested in the Governor (1) suitable powers in regard to legislation and finance necessary for the discharge of the specified duties imposed upon him by the Constitution."

A Member: There is no question of finance.

Chairman: Yes, there is " finance " in the second line with which we have just been dealing: " and (2) suitable emergency powers to carry on the administration in the event of a breakdown of government or the Constitution. The powers under (2) shall not remain in operation for more than six months without the approval of Parliament expressed by a resolution of both Houses." If you accepted that, it would mean that (*d*) would come out and the words " administration, legislation or finance," instead of being in (*c*), would go into (*d*); the present (*d*) would come out entirely. That would be an amalgamation of those two ideas under this new section. I will read it again: " There shall be vested in the Governor (1) suitable powers in regard to legislation and finance necessary for the discharge of the specified duties imposed upon him by the Constitution, and (2) suitable emergency powers to carry on the administration in the event of a breakdown of government or of the Constitution." Now you see you are getting right back to the old (*d*). " The powers under (2) shall not remain in operation more than six months without the approval of Parliament expressed by a resolution of both Houses. I may say that after I got my report out, it was pointed out to me that this would be a much better way of dealing with it than the method that I had adopted, and I should like to hear the views of the Committee upon the suggested change.

Sir Robert Hamilton: May I ask with regard to that if it would cover the point which I intended to raise in my amendment, which was to refer particularly to the powers of the Governor to restore demands for grants, which we have not really referred to, but I take it that amendment will now cover it?

Chairman: Yes, that would cover it. Now that is a suggestion I put forward here for the improvement of the report. I would like to hear your views on it. It disposes of one of Sir Robert Hamilton's amendments.

Sir Chimanlal Setalvad: Under the proposed wording, the Governor will have the power to restore grants rejected by the Council?

Chairman: Only in the exceptional circumstances of a breakdown. He must have the power; somebody must carry on. It is only in the event of a breakdown, so far as I can see it.

Sir Chimanlal Setalvad: We might transpose these words: " In the event of a breakdown of government or of the Constitution, there shall be vested— "

Chairman: I am not a lawyer, and I am not going to accept a change like that until somebody advises me legally as to the effect.

Lord Zetland: Mr. Chairman, if you tell us that that is the suggestion of a constitutional lawyer for the draft, I have no objection. I was myself quite satisfied with the report as it stood, but if you tell us that the constitutional draftsmen say that that would be a better way of drafting the same thing, I have no objection to raise.

Chairman: Yes, I emphatically say that I have been so advised.

Lord Zetland: Then cannot we accept that?

Chairman: I would like to see it accepted; and if anybody has any doubt about it, he can raise the point in the Committee when the report comes up after having had time to consider it.

Sir Chimanlal Setalvad: All I am suggesting is really a verbal change not affecting the meaning of it at all.

Chairman: But I cannot accept that. We have too much experience of drafting, even if we are not lawyers, to prevent us from lifting the heart of a thing and putting it at the top.

Sir Chimanlal Setalvad: Then I will point out the difficulty which arises. As drafted it runs thus: " There shall be vested in the Governor (1) suitable powers in regard to legislation and finance necessary for the discharge of the specified duties imposed upon him by the Constitution, and (2) suitable emergency powers to carry on the administration in the event of a breakdown of government or the Constitution ". I understood from you, Sir, that both these things are to happen in the event of a breakdown of government.

Chairman: No, no. The first thing you have got to consider is this: What are the powers necessary for the discharge of the specified duties imposed upon any Governor by the Constitution? That is the first thing you have got to do. When you have cleared that up, then you can get on to the other, because there are two definite subjects here. Now, does he need the assistance of legislation and finance under any ordinary circumstances for the discharge of the duties specified, or the specified duties imposed upon a Governor by the Constitution?

Sir Chimanlal Setalvad: If that is so, it is much too wide a power. In the first place, we do not know what are the duties imposed upon him by the Constitution. You here give him power to legislate and to finance anything in order to discharge the duties imposed upon him by the Constitution.

Lord Zetland: Yes, only in those cases.

Sir Chimanlal Setalvad: What are " those cases ". I want to know.

Lord Zetland: They have been laid down in the paragraph before, the paragraph we have been discussing.

Chairman: In the previous paragraph we have laid it down that it will be part of his duty to safeguard the tranquillity of the Province; it will be his duty to protect the minorities. There are two very definite functions that are imposed upon him.

Sir Chimanlal Setalvad: It says those two are included, but you have the general words there: " discharge of the specified duties imposed upon him by the Constitution ". Then you specify two; but the general words are far wider and may include anything. We want to know what it includes.

Lord Zetland: But surely only if they are specifically imposed upon him by the Act. If I might remind the Committee, Mr. Chairman, there were three heads under which we all agreed that the

Governor must have special powers; one was to carry out any order which is given to him, I think, by the Federal Government. I do not remember the wording, but you remember there were three categories, and it was generally agreed by the Committee that if the Governor was to be in a position to discharge his functions under those three heads, he must have these special powers to enable him to do so.

Chairman: If there is not agreement to accept it, then it will be necessary for me to call upon Sir Robert Hamilton to move his amendment in connection with (*d*), emergency powers.

Sir Robert Hamilton: Mr. Chairman, do I understand that you rule this out altogether? May I suggest that we might accept it provisionally, have time to consider it, and, if necessary, raise the point later.

Chairman: That is exactly what I suggested, that I hoped the Committee would accept it as it is. Everything has to be fitted in, and if when they read it in the report and consider it they think part of it goes too far, they can raise it in the full Conference.

Mr. C. E. Wood: May we have it again very slowly?

Chairman: I will read it again with pleasure: " There shall be vested in the Governor (1) suitable powers in regard to legislation and finance necessary for the discharge of the specified duties imposed upon him by the Constitution, and (2) suitable emergency powers to carry on the administration in the event of a breakdown of government or of the Constitution. The powers under (2) shall not allowed to make any change which is going to go against the approval of Parliament expressed by a resolution of both Houses."

Mr. Joshi: Sir, I cannot accept this at all, because the power is very wide. If the Governor is to be vested with powers of finance, not in an emergency but in ordinary times, to preserve the safety and tranquillity of the Province, it clearly means he can spend any amount of money on police. He may say that he feels that the safety and tranquillity of the Province is endangered if so much money is not spent on the police, and he can spend under this head in ordinary times, every year, without the permission of his Parliament, any amount of money on the police; it gives him that power. Secondly, I do not know what legislation the Governor can pass without the sanction of his Legislature for the protection of minorities. It is a very wide power that the Governor should legislate on any matter without the consent of Parliament for the protection of minorities. I think, Sir, this power is really very wide and we do not know what it is at all; it may mean anything.

Sir A. P. Patro: In matters of administration the Governor's interference is absolutely necessary on certain occasions. On matters of finance, under the section the Governor now has got power of certifying. In cases where emergency arises he will have to certify in the interests of the safety and tranquillity of the Province that it is necessary. Now we have to consider, as I said, as practical business men whether this power has been abused; that is the real

test. It is only in exceptional cases that this power is exercised and is necessary; it is a safeguard only in times of emergency; in times when there was need of it the Governor would exercise this special power. Therefore as practical administrators we must ask ourselves whether there is any danger in such power being vested in the Governor. If in the past there has been no instance in which this power has been exercised to the detriment of the State, I do not see that we need discuss it at much length. In the present conditions of India, it is necessary that this power should be vested in the Governor. We cannot think that such an emergency would never arise. The Governor is not such a foolish man as to interfere in the day-to-day administration, because he knows that it is a system of self-government, of autonomous government, and his Ministers are responsible to the Legislature; he cannot butt in every time and say: Here is my power and I will exercise it. Therefore we must as practical business men take it that it will be exercised when danger and emergency arise and there is a need for it.

Sir Chimanlal Setalvad: It is not emergency.

Sir A. P. Patro: Yes; I am saying that in ordinary circumstances he would not interfere. Has there been an instance in the past in which a Governor has interfered unnecessarily? There is that extraordinary power now vested in the Governor to certify expenditure in the interests of peace and tranquillity. My friend has referred to the case, for instance, of police expenditure. For instance, we know the position in Bombay to-day. I do not want to refer to controversial matters, but in Bombay to-day the emergency arises, and the police will have to be strengthened and armed; the Governor will have to strengthen not merely the police, but he will have to make another bandar bast. Would Members here deny that that is a case in which he should exercise his power for the sake of the safety and tranquillity of the country. After all, you must consider that the Ministers in the party system and the communal system that we are going to have in the Legislatures will be influenced not merely by adherence to principles, but also by communal considerations. In such a case what is the position of the Governor if he has not got this power to exercise generally and hold the balance between these communities in order to administer the Province in the interests of the people? Therefore it seems to me, Sir, that as practical business men we are wasting time in discussing this matter.

Chairman: Now, can we agree to the suggestion which has been made that if this be accepted it is to be on the clear understanding that if to-morrow, when you have had the opportunity of considering it further, if you desire to raise it in the full Committee, you are entitled to do so without going against the decision of this Committee?

Sir Chimanlal Setalvad: No, Sir, we do not want to be placed in the position of having to raise the question in the Committee. Let it be considered here.

Chairman: But we are considering it here; I have listened to several speeches and we must get a decision; we cannot wait upon the one point all night. I do not like it to be said that it should be considered here when we are doing nothing else but considering it.

Sir Chimanlal Setalvad: It is a matter of such importance to my mind that if you give these vague and wide powers to the Governor, you will be striking at the root of the responsibility which you want to establish. With all deference to my friend, Sir A. P. Patro, it is a very poor argument to ask:—Has the power been abused in the past, and to say you must trust the Governors. That is not the question. You must not clothe a person or authority with power which may be abused. It is no use saying that under certain other circumstances he has not abused the power and therefore you must vest him with that power. The proposal here is not to vest him with this power only when an emergency arises, but ordinarily in the day-to-day administration he is to have the power of legislation and of finance in the discharge of what are called the specified duties imposed upon him. One of the specified duties imposed upon him, as has been pointed out by Mr. Joshi, is the protection of minorities and various other things. So that he will be at liberty to spend any amount of money he chooses on the protection of minorities or on any other thing. With regard to law and order, my friend Sir A. P. Patro always speaks of the ministers as being people who will have no regard to the tranquillity of the Provinces at all. If we have no confidence in your Ministers, why do you waste your time forging this constitution? We are proceeding on the footing that the Ministers will be responsible people who will do their duty properly and in the right way. Therefore I submit, Sir, that the powers proposed here are much too wide to be given and we cannot assent.

Dr. Shafa'at Ahmad Khan: Sir, I very strongly support the proposal which has been made that the powers should be conferred on the Governor with regard to administration, legislation and finance. I am surprised that a question of such a non-controversial nature should be the subject of comparatively controversial speeches. The point at issue is this:—Will the Governor abuse the powers that are going to be conferred on him? Before we can reply we must ask ourselves whether he ever has abused them in the past. I do not know a case of any Province where the powers regarding safety and tranquillity, that portion dealing with the clause in the Government of India Act, have been abused. They have not been abused in the United Provinces, the Punjab nor in any other Province that I know of. Will it be done in the future? I should like you, Sir, to visualise the position of the Governor say in the year 1932 or 1933 under the new regime. In the new regime the Governor will be guided mainly by a unified ministry—a ministry which will really carry on the administration of the whole country, and the Governor will not have those powers which he exercises now. He would be a very rash man who would take any action that went counter to the wishes of the ministry as a whole. If he did do that he would be subjected to criticism in the Legislature,

outside the Legislature, and throughout the Province. I do not think, therefore, that the powers which are now proposed to be given are excessive. I think any Governor worth his salt will consider very carefully the measure which he is going to propose before he uses the safeguards which you propose to give him.

Chairman: I have already made the suggestion, but I understand that one or two dissent from it. Do they press their dissent? (Cries of "Yes.")

Sir Abdul Qaiyum: If the difficulty is only as to finance, the finance will only be needed when the Governor is exercising those special powers. Am I to understand that the Governor is not going to be allowed the power of spending money in times of emergency? If so, I cannot understand it. I think some powers must be given to the Governor if he is to keep peace and tranquillity in the country, and he must be given powers to spend some money under those circumstances. Otherwise, if you do not give him the money to spend he cannot carry out those duties.

Chairman: If the dissent is insisted upon, the only way we can settle this is to say in the notes that some members dissented from the first part of No. 1 of this clause. That would safeguard their rights to raise the question in the full Committee. With that explanation, will members be prepared to accept this? (Cries of "Yes.")

The next matter is this. The sub-Committee suggests a rider that in their opinion it is desirable that the present rigid convention in the Provinces other than the Presidencies of appointing Governors drawn from the Indian Civil Service should be relaxed. I have an amendment by Mr. Paul that the word "relaxed" be deleted, and that the word "discontinued" be inserted.

Mr. Paul: I have undertaken a task which is rather delicate, because I have a good many friends in the Civil Service for whom I have a very great respect. It is no small circle either, and yet I do not recall one single member to whom I would not take off my hat for his conscientiousness and even extreme solicitude for the welfare of India. Therefore it is with due deference to them all that I wish to move this amendment. I wish to place two considerations before you. The first is that hitherto the member of the Indian Civil Service who was appointed to the Governorship usually went up all the rungs of the ladder. He generally became a member of the Executive Council, gaining experience in administration in various departments on his way up. In that way he became prepared for his post in many ways. Under the new arrangements, which will be put down even in this document which none of us consider perfect, the number of members of the Indian Civil Service who will be able to go up to the top rungs of the ladder will be extremely small; in fact the provision of an official minister has not been accepted by this sub-Committee; it has only been included in a minute of dissent. I quite realise it might come into the Act. If it does come into the Act or in the instructions or in the rules, it will be very few who will get that opportunity. Then what will be the

result? Any member of the Indian Civil Service who is appointed Governor will be, so to say, promoted, using ecclesiastical language, *per saltem*. He will have to jump over many rungs which otherwise he would have had to ascend. Merely to say that will be immediately to show anyone who knows anything about India the inadvisability of such a procedure. To promote a Commissioner, or a Chief Secretary, or a Member of the Board of Revenue, or the head of a department, to the position of Governor of a Province is, I think, extremely unwise and injudicious.

Then I have another argument to place before you, which is even more weighty. It is a matter of principle. I want to refer now to a statement appearing in the letter which was published in this morning's " Times," from H.H. the Maharaja of Bikaner. This is the statement: " Does anybody in his senses believe that this articulate India, embracing I am convinced the great majority of thinking people, can be content with permanent subordination to a bureaucratic system of Goverment?" His Highness was not thinking of this particular point which I am trying to make now, but it has a very definite and direct bearing upon the point which I am trying to make. The Governor of a Province is called upon on important occasions (and those occasions are not infrequent) to be able to dominate the machinery which has been perfected by the Civil Service in my country. It is the most powerful machinery in the history of the whole world. There is no parallel to it anywhere in any age. It is that which we call the Bureau. A Bureau need not be a bureaucracy. It becomes a bureaucracy when the hierarchy reaches up to the top position, and is then vested with extraordinary powers normally and in emergency times. It is that which we want to prevent. I may say candidly that we are trying not to get any diminution in the connection of Britain with India, but we do want relief from the bureaucracy of India. I submit it will be impossible, taking human nature as it is, for a member of the Civil Service, when he is placed in the position of Governor, to be independent of the traditions and of the atmosphere of all that is demanded of that whole group. It is there that we want the help of Britain hereafter. We want Britain to contribute to us not through the Service as it has been contributing, but we want it to contribute more and more—not less and less—what it can through the statesmanship which is available in this country.

Sir C. Setalvad: I beg to support what Mr. Paul has said. I had myself given notice of a similar amendment which read: " The sub-Committee are of opinion that no member of the permanent Services in India should be appointed as Governor of any Province." The draft does not represent the views that were expressed when this matter was discussed in this sub-Committee. So far as I could then gather, the larger volume of opinion was in favour of having no Civil Service Governors in the future, and when I spoke then I gave the reasons. I do not want to repeat them, but the fact remains that a Civil Servant, though a very efficient administrator, has been brought up in the tradi-

tions of the Service and is so much a part of the machine that his outlook is not wide enough for that of a Governor of a Province. Therefore it is to the advantage of India and to the smooth working of the new constitution that you should have as Governors people from public life sent out from England. We know in practice what a great difference it made to Bengal, for instance, when the Lieutenant-Governors disappeared and Governors like Lord Zetland were sent out to India. We want administrators of that type to be sent out as Governors and not to have such people, efficient though they may be, as Civil Servants with no wider outlook than they have. I strongly support the amendment.

Chairman: I ought to say that I cannot quite agree with the last speaker that his version of what took place in the sub-Committee is superior to the version of the Chair. When I said it should be relaxed, I thought I was accurately representing what took place during the discussion. It is no advantage to me to take one side or the other.

Sir C. Setalvad: I did not suggest that.

Chairman: I beg your pardon. You definitely challenged the Report on this point. I thought there were one or two speakers who took the opposite line to what has just been taken by the last speaker. Therefore what could I do but sort of gather up the position and take what might be called the centre position, and say that the position should be relaxed? Why did I do that? I could conceive that there might be very serious difficulty in getting all the Commissioners that might be required from outside the Service. There might be an odd case, and all I wanted was that there should be some slight provision to meet that possibility. However, if there is now a strong view in the sub-Committee that it should not only be relaxed but discontinued—that on no occasion should it be otherwise than what the two last speakers have laid down—then of course the Report will be altered to suit that, but I have yet to find that that is the view of the majority of the sub-Committee.

Sir Abdul Qaiyum: Why should there be a distinction made between the poor Civil Servant and any other individual? Any private servant, or a sweet seller or a barber can stand for the Assembly and be elected, and may possibly become a Minister in a Province. There are some members in some Provinces who are barbers and sweepers, who may yet come to the Ministry and who may possibly become Chief Ministers, and perhaps the Government of India might like to put one of them in as Governor. Yet the poor Civil Servant must not have that aspiration and that hope of becoming a Governor one day. I do not think we should put the poor Civil Servant under such a disadvantage.

Lord Zetland: Here again I only rise to ask for a little discretion. I quite appreciate the force of all that Mr. Paul said on this subject; but when he said that in future there would be no Indian Civil Servant who would be a member of the Executive Council, there will, I think, for some time to come be men of

great experience at the headquarters of the Government of India who would undoubtedly be well fitted to hold the position of the Governor of a Province. While I should be quite prepared to say that it should not be regarded as a right that a member of the Civil Service should look for a Governorship in so many Provinces. I would support what the Chairman has said and say that there may be certain cases in which it would be to the great advantage of the Province itself that a member of the Indian Civil Service should be appointed as Governor. I would prefer, therefore, some such wording as that which is already in the Report.

Chairman: Is this amendment pressed? *(Yes!)* In that case we will have again to say that there was a section of the Committee which dissented to the principle being relaxed and that they desired to have it discontinued.

With these amendments, No. 6 stands part of the report.

With regard to No. 7, I have only amendments to *(d)*. I hope we shall be able to finish to-night. On *(a)*, the size of the Provincial Legislatures, there is no amendment; on *(b)*, their lifetime, there is also no amendment. On *(c)* I think there is an amendment by Sir Chimanlal Setalvad.

Diwan Bahadur Ramachandra Rao: On *(b)* may I suggest that "four" be substituted for "five"?

Chairman: No, I think there was a general feeling that we should make it a maximum of five. That leaves you room within the five to make it four or three if you get agreement. It is only that this shall be the maximum; that is all.

Sir Chimanlal Setalvad: With regard to *(c)*, the draft gives power to the Governor to nominate any non-officials where certain groups or interests are unable to return their own members through the polls. What I want to propose now is what I indicated before when speaking on another clause, namely, that instead of giving power to the Governor to nominate where, in his opinion, any particular interest or minority is not represented, he should call on the already elected Council to co-opt a certain number to represent those interests.

Dr. Ambedkar: No.

Sir Chimanlal Setalvad: Objection was taken to that on the ground that those people who are in a majority in the Council will co-opt their own men. That can always be safeguarded against by having a proportional vote system such as obtains at present in many Legislatures, with the result that only a few people—six or seven—if they combine are able to get their own men in. That is my amendment. That would do away with the system of nomination altogether, and you would get in by the method of co-option the interests or minorities which had been left out.

Chairman: What are the words you wish to change?

Sir Chimanlal Setalvad: I would delete the first part.

Chairman: How far down? It says " With the possible exception of a strictly limited proportion of non-officials who may in some Provinces require to be nominated by the Governor to secure the representation of groups unable to return their own members through the polls." Would you take the whole of that out?

Sir Chimanlal Setalvad: I would delete all that down to the word " polls ".

Chairman: The amendment is to delete all the words from the beginning of (*c*) down to the word " polls " inclusive, so that it will begin " The new Provincial Legislatures should consist wholly of elected members, and the official bloc should disappear " and it would go on, " provided that if in the opinion of the Governor any minority or interest has failed to secure representation, the Governor may direct the Council to supply the deficiency by co-option, but the total number as co-opted shall not exceed..... "

Sir Chimanlal Setalvad: There you will insert some number.

Chairman: Well, what number?

Sir Chimanlal Setalvad: Any particular number—5, 6 or 10.

Chairman: It is not for me to complete your amendment; my business is to complete the report.

Sir Chimanlal Setalvad: Then I will name a figure; I will say five; but with regard to the number I am quite prepared to accept any alteration which may seem desirable to the sub-Committee.

Chairman: Let us get it clearly before us. As in the document before us, it reads " With the possible exception of a strictly limited proportion of non-officials who may in some Provinces require to be nominated by the Governor to secure the representation of groups unable to return their own members through the polls." These words all have to be deleted, and the paragraph is to be made to read " The new Provincial Legislatures should consist wholly of elected members, and the official bloc should disappear, provided that if in the opinion of the Governor any minority or interest has failed to secure representation, the Governor may direct the Council to supply the deficiency by co-option, but the total number as co-opted shall not exceed five ".

A member: On a point of information, does the hon. member mean the co-option, will take place after the first meeting of the Council, and that until then the Council will not be complete?

Sir Chimanlal Setalvad: The Council will be complete when the co-option takes place. You have at present co-option in Bombay in various bodies; those elected sit together and co-opt other members.

Sir Abdul Qaiyum: When a point has been raised in the general discussion and defeated, is it in order to bring it up again in the form of an amendment and have it discussed again?

Chairman: It is difficult to exclude anything that comes up on this point, but strictly speaking I think you are correct; when

something has been brought up and it has been found that the general sense of the Committee is against it it should not come up again. I claim that in (*c*) I did endeavour to interpret what I thought to be the general sense of the sub-Committee.

The amendment is before you; does anybody wish to support it?

Dr. Ambedkar: I am afraid I shall have to oppose this amendment. First of all, such experience of co-option as we have had in Bombay is not very encouraging. It has developed into the worst sort of scandal; the amount of corruption and bribery that take place are such that I for one should not like to introduce this principle in the constitution of the Legislature of Bombay.

A further objection is this. If the various communities that do not find themselves elected at the polls are to get representation of a real sort, representation which is independent of the influence of any other community, I think co-option is a principle which is certainly not going to help them, for it may very well happen that when representatives of the various communities stand for co-option only those will be in fact co-opted as may happen to be subservient to and willing to play into the hands of the majority. It seems to me this would be worse than no representation at all, and I am afraid on that ground I must oppose the amendment. But I submit, Sir, that this sub-Committee ought to make a recommendation that the future constitution of the Provincial Legislatures should be such that there should be no nominated members at all.

Diwan Bahadur Ramachandra Rao: That is far better, of course.

Dr. Ambedkar: That is my own view of the matter. I am certainly opposed to co-option.

Diwan Bahadur Ramachandra Rao: I agree that some statement that the Legislature should be wholly elected ought to be inserted in this report, and unless some such indication is given of the views of this sub-Committee the nominated element will continue, though I believe it is the desire of most of our members that it should disappear. A statement to that effect ought to find a place in the report. I have no doubt whatever that every one of us is quite alive to the evils of nomination, and we are anxious it should disappear as early as possible. Under these circumstances I am not prepared to support the amendment, and I would favour the proposal made by my friend, Dr. Ambedkar.

Chairman: What was the proposal? I have no words here.

Dr. Ambedkar: We should say it is the view of the sub-Committee that hereafter the Legislative Councils in the Provinces should be wholly elected.

Chairman: That is another amendment altogether, you will have to send it in in writing if you want to move that.

Mr. Joshi: I am opposed both to nomination and to co-option of members of those communities that cannot come in by election. Personally, I do not think there should be any difficulty in devising some method by which communities shall secure representation, and if some communities are so small that no representation can be reserved for them, the best course will be for them to seek the goodwill of the community generally and secure election through the general constituencies. I do not know whether we are going to do away with general constituencies altogether; that question has not yet been discussed. Of course, if all the seats are divided by Hindus, Muhammadans, Jains, Buddhists and Sikhs, it is certainly true that difficulty may arise in the case of some people who, like myself, are unwilling to be styled Hindus or Muhammadans; we shall find it difficult even to vote. It will be much better, therefore, if we frame our constitution we make provision for people who will not belong to the big communities for which reservations are made, so that they may have some representation. Those communities should get themselves elected by constituencies, but it is wrong to try to secure representation for those communities by nomination.

Co-option is equally objectionable. If you have five seats to fill by co-option to represent five communities, proportional representation will not be any use.

Dr. Shafa'at Ahmad Khan: Quite useless.

Mr. Joshi: Because there will be five different people to be nominated, and therefore it will be the majority that will appoint all the five. That is inevitable, and if the majority selects all the five it is going to strengthen its position by co-option. I therefore think that both nomination and co-option are objectionable, and the Councils should consist only of elected members.

Sir A. P. Patro: I think a certain amount of nomination is needed at present and will be needed for a number of years. I do not say nomination will be needed to the full extent to which it is at present or that it will be required as a permanent measure, but nomination is required for a temporary period, as otherwise it will not be possible, with the present organisation of our classes and communities, for all the minorities to be properly represented in the Legislatures.

My friend Mr. Joshi is idealistic; he says the communities must seek support from the general electorate. However, a little experience in elections in the rural areas will show that a minority community has absolutely no chance of being returned, however important it may be and however weighty its interest; it has not a chance of coming in. It is in order to fill up such deficiences that it is necessary that there should remain to a small extent the power of nomination, as recommended in the Despatch of the Government of India and in the Report of the Simon Commission. It should not be used to the extent it is to-day, but a certain proporion will be needed to make up these deficiences and meet the difficulties. We cannot make it wholly elective at

present. That should be the ideal, and we should gradually work up to it; I entirely support the idea that in course of time that ideal should be realised, but in the present conditions of the country and of society it is necessary that there should remain some element of nomination, and that element has already been recommended in the Despatch of the Government of India.

Chairman: I will take your decision on this point.

Raja Narendra Nath: I support Sir A. P. Patro. I think the power of nomination should be strictly confined to the representation of interests which cannot be given by election.

Dr. Shafa'at Ahmad Khan: Yes.

Raja Narendra Nath: There may be in certain Provinces some communities, such as the one to which Dr. Ambedkar belongs, for which it would be impossible to arrange election.

Dr. Ambedkar: I should not have anything to do with a constitution which did not provide the franchise for my community.

Raja Narendra Nath: The franchise will have to be arranged on a very different basis if it is to be provided for the community to which Dr. Ambedkar belongs, and therefore a limited power of nomination should be provided.

Chairman: It seems to me the majority of the sub-Committee is in favour of clause (*c*) as it stands in the Report.

We will now come to the last clause (*d*), to which I have two or three amendments. The first is by Sir P. C. Mitter.

Sir P. C. Mitter: I beg to move certain changes in the last sentence. After the words " but the decision to incorporate a Second Chamber in the new constitution of any province " I suggest the addition of the words " other than Bengal, Bihar and Orissa and the United Provinces," and at the end, after the word " course," I suggest adding the following: " In the three Provinces mentioned the method by which the Upper House should in each instance be composed should be left to further investigation by the Franchise Committee, and after such investigation these Upper Houses should be set up at the outset of the new system ". I am trying to get the recommendation of the Government of India adopted. The Government of India, on page 21 of their Despatch, say: " The matter seems to us to be peculiarly one in which regard should be had to local conditions." For that reason, before I take up the local conditions in all the three Provinces I have mentioned, I desire to bring to the notice of my colleagues here something about the local conditions in my own Province of Bengal.

The reason why I am drawing the attention of members here to the local conditions in my own Province is that I desire that my friends, such as Sir Chimanlal Setalvad and Diwan Bahadur Ramachandra Rao, will give that sympathetic consideration to the local conditions in my Province which I expect from them.

It is well known that in Bengal, from the days of the Swadeshi agitation and for more than fifteen years, there has been a strong body of opinion, which has gradually grown in volume; there is a large number of unemployed youth in the country who have come to the conclusion that there is no evolution worth having through the British connection. They may not to-day be large in numbers, but at elections they do dominate.

Moreover, in Bengal we have people who belong to the revolutionary party elected as members of our Legislature. Before the last Congress passed its independence resolution, and before a certain section of the members of our Legislature resigned, we had amongst others representatives of the revolutionary party from certain important constituencies such as the city of Dacca and the municipality of Hooghly. (Sir P. C. Mitter mentioned two names, and added " I mention names to show you that I am stating facts ".)

I can quite understand that those who proceed on theoretical considerations may not like the idea of a Second Chamber, but I appeal to you whether you do not want to advance on constitutional lines. If we do want to advance on constitutional lines, if I place before them the contingency that there is likely to be a large body of members who will obstruct the constitution for the purpose of carrying out the ideal of independence instead of the British connection, I am sure none of my friends gathered round the table here will be in favour of it.

But you may say: Why do you apprehend that? You may say: Why should not those who get the right to return members be satisfied to proceed on constitutional lines? I will tell my friends not only from my personal experience but from events which have happened. In the 1923 elections my friends know very well that the father of Nationalism in India, Bannerjee, was defeated by six to one by a gentleman who was then comparatively unknown. In that election the Advocate-General of Bengal was defeated by ten to one by a gentleman who is even now not known to you. Those are not the only two instances; there are many other instances which I could place before my friends. Now if we all desire constitutional advance, the very existence of a Second Chamber will check the desire for independence. Mr. Chairman, may I have one minute more?

Chairman: One minute.

Sir P. C. Mitter: For that reason, and for another, namely, that the Government of India, the Government of Bengal and the Committee which was appointed by the Legislative Council all recommend this, it is very necessary that in my Province there should be a Second Chamber. One word more and I have done. If, Sir, you leave it to the legislature of the future, I think it is against human nature to expect that if that contingency happens, namely, resort to obstruction in order to secure separation from the British Empire, the Legislature will ever possess a Second

Chamber. You cannot expect that legislature to give us a Second Chamber. In consideration of these facts I would once more appeal to those who are opposed to this to give us a chance of evolving on constitutional lines.

Chairman: I want to remind the Committee that this matter was discussed during the general discussion and I do not want second reading speeches over again.

Raja Narendra Nath: I just want to say that the amendment that stands in my name is substantially the same as that on which Sir P. C. Mitter has spoken.

Chairman: That is right.

Raja Narendra Nath: I want to say that when the reports of Local Governments and the despatch of the Government of India show that there is a demand for such an institution in certain Provinces and the Local Governments and the Government of India also support that demand, this Committee ought to be in a position to recommend it. I would appeal to those of my friends who are opposed to the suggestion to consider the situation. Sir P. C. Mitter has given some very good and sound reasons for the creation of a Second Chamber in Bengal, and those reasons apply, with somewhat modified force I should say, to Bihar and the United Provinces also. In these three Provinces where the recommendation has been made I hope the Committee will reconsider its position and will make a unanimous recommendation in favour of the creation of a Second Chamber. Sir P. C. Mitter has very wisely made a suggestion with regard to the composition of the Second Chamber, and has left that question to be determined by the Franchise Committee. I think the Franchise Committee will see that adequate representation is given to interests other than those of landlords, and that the landlord interests do not become predominant in the Second Chamber.

Chairman: I hope you all understand the amendment which has just been moved. I have another amendment which says: Omit everything after first sentence and add:—" But if in any Province the Legislature under the new constitution decides by a two-thirds majority that a Second Chamber is necessary, steps should be taken to constitute such Chamber by the introduction of a Bill in the Federal Legislature defining the constitutional powers of such Second Chamber." May I say that I have had to give a good deal of consideration to this part of the Report; I endeavoured to give very carefully what I thought was the position of the Committee. We recognised, as we say, that conditions in some Provinces may make it desirable that the provincial legislature should be bicameral. There you see we have made it quite possible for this to be applied; but the decision to incorporate a Second Chamber in the new constitution of any Province should not be taken unless opinion in the Province definitely favours this course. I think we have taken what might be described as the middle course, but I shall have to allow the

discussion to proceed unless there is a general desire that we should specify, in the words of the first amendment, Bengal, Bihar and Orissa and the United Provinces; and then at the end add: in the three Provinces mentioned the manner in which the Upper House should in each instance be composed should be left to further investigation by the Franchise Committee, and after such investigation these Upper Houses should be set up at the outset of the new system. That is the position.

Lord Zetland: Mr. Chairman, I should like to support Sir P. C. Mitter in the proposal which he has made, for this reason: If you are going to leave it to the Province to express through its newly elected Legislative Council under the new constitution its views on the question whether there should or should not be a Second Chamber, I am afraid you are going to load the dice rather heavily against the second Chamber. Because the position will be this: the members of the new Legislative Council will have just come together flushed with their victory at the polls, and it is very unlikely that they are going to propose anything which in their opinion will in any way detract from their own status and importance. Therefore they will naturally be very much disposed to vote against a Second Chamber. But since it has already been stated very clearly that in these particular Provinces there is a general desire to have a Second Chamber, I think we ought to give those Provinces the chance of getting one which they would have if the suggestion put forward by Sir Provash Mitter is accepted. Therefore I support it.

Sir Robert Hamilton: Mr. Chairman, may I just add one word? Since this matter was last discussed by the Committee I have seen reason to change the views which I then expressed. I have discussed the matter with my colleagues, the Liberal Delegation, and the opinion there is that with regard to those three Provinces to which Sir Provash Mitter refers, it should definitely go as to bicameral legislature. I think I should let the Committee know that I have changed my views to that extent, because I said before that I thought it ought to be left to the newly elected legislators to say whether they should be bicameral or unicameral.

Chairman: Let me read it as it would be in the event of our accepting the first part of this amendment: " The existing Provincial Legislatures are unicameral. The sub-Committee recognises that conditions in some Provinces may make it desirable that the Provincial Legislature should be bicameral; but the decision to incorporate a Second Chamber in the new constitution of any Province, other than Bengal, Bihar and Orissa, and the United Provinces, should not be taken unless opinion in the Province definitely favours this course." Now that does not read very well but you could leave the drafting to be done afterwards. Is there any objection to the insertain of the words:—" Applicable to these three Provinces that have been stated?"

Members: No.

Mr. Joshi: Yes, certainly we object.

Chairman: There seems to me to be a majority of the Committee against the insertion of the words.

Mr. Barooah: I support it, Sir.

Chairman: In order that I may be guided, may I ask the Committee to indicate by a show of hands whether they desire this reference to these three Provinces to be inserted. In favour please show:—10. Against:—7. Now that is the position. I think we shall have to put a note in to say that these words were added by a vote of 10 in favour and 7 against.

Lord Zetland: Mr. Chairman, will you do that, because we have had no voting? Will you say:—a majority?

Chairman: Well, I will say: a majority. I do not want to be unfair. It is the nearest that we have had to equality; we have not had anything so near; but I am quite prepared to say that this decision was only reached by a majority of the members; and then anybody will be entitled to ask what the numbers were.

Now the next is:—" In the three Provinces mentioned the manner in which the Upper House should in each instance be composed should be left to further investigation by the Franchise Committee, and after such investigation these Upper Houses should be set up at the outset of the new system." Is there any objection to these words being added?

Sir A. P. Patro: It is quite unnecessary.

Chairman: Is this part of the amendment pressed?

Sir P. C. Mitter: I am quite prepared to leave it.

Chairman: Yes, you had better be satisfied with your victory. Now I have still another amendment. I hope we shall get on, because my time is going very fast. I do not know whether you are prepared, in view of the decision which has been taken to press this.

Sir Chimanlal Setalvad: How does it stand now, may I know?

Chairman: It merely stands that you want to omit everything after the first sentence.

Sir Chimanlal Setalvad: I want to know what has been done up to the present, how the clause stands now.

Chairman: Subject to drafting, in the last line but two, after " any province ", we insert the words:—" with regard to Bengal, Bihar and Orissa, and the United Provinces ". That is all the change we have made.

Sir Chimanlal Setalvad: With regard to any other Province, the original remains, that it will not be taken unless the Province definitely favours it?

Chairman: Yes, it should not be taken unless opinion in the Province definitely favours this course. I think that should meet you.

Sir Chimanlal Setalvad: Yes.

Very well, with this amendment this clause stands part of the Report. I think you want to make a statement, Mr. Chintamani.

Mr. Chintamani: It is before you, Sir.

Chairman: Do you desire me to read it to the Committee? I have not read it myself, and therefore I asked you first. It is as follows:—

> " The Report as approved by the sub-Committee so dilutes the responsibility of the Provincial Government to the Legislature by vesting large powers in the Governor that the undersigned members are obliged, much to our regret, to dissociate ourselves from several parts of it to which we attach importance. We reserve ourselves the liberty of re-opening the issues in full Committee and if necessary in Plenary Session. We request you to be so good as to cause this to be brought on record at the conclusion of the report."

Then follow eight names, who dissent from the Chairman's Report.

Mr. Chintamani: As long as the dissent is recorded that will quite serve our purpose.

Chairman: Do I understand that you are agreed that the opposition is to one point only? Would it be all right if at the end of that point we insert " The following expressed their dissent "?

Several Members: That is all we want.

Chairman: These names will be inserted in the proper place. Subject to that this report as amended, and with the dissents recorded, will be presented to the Chairman of the Conference with the object of having it submitted to the meeting to-morrow. Is that agreed? (Assent.)

(The sub-Committee adjourned at 6-35 p.m.)

SUMMARY OF THE PROCEEDINGS OF THE SIXTH MEETING OF SUB-COMMITTEE NO. II (PROVINCIAL CONSTITUTION) HELD ON 31ST DECEMBER, 1930.

The following* were elected as members of a sub-Committee to co-operate with the sub-Committee appointed by sub-Committee

* See Appendix No. 1 to the Second Report of sub-Committee No. I (Federal Structure) (volume I, page 282).

I (Federal Structure) to consider the allocation of subjects not already classed as Federal, between the Centre and the Provinces.

Lord Zetland (Chairman).
Mr. Zafrullah Khan.
Nawab of Chhitari.
Mr. Joshi.
Dr. Ambedkar.
Sir A. P. Patro.
Raja Narendra Nath.
Sir Chimanlal Setalvad.

Sub-Committee No. II (Provincial Constitution).

REPORT PRESENTED AT THIRD MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE HELD ON 16TH DECEMBER, 1930.

1. The following report, subject to adjustment to the complete constitution, is submitted by sub-Committee No. II.

2. The sub-Committee was appointed to consider two heads of the Lord Chancellor's list, namely—

(*a*) The powers of the provincial legislatures.

(*b*) The constitution, character, powers, and responsibilities of the provincial executives.

3. The sub-Committee met on the 4th, 5th, 8th, 9th and 15th December. The proceedings on the first and second days comprised a general discussion of the problem. On the succeeding days particular issues were separately considered and examined. The Chairman ruled that the size, lifetime, number of chambers of the provincial legislatures, and the question of the official bloc might also be discussed as germane to the sub-Committee's Terms of Reference.

4. *The Abolition of Dyarchy.*—The sub-Committee is agreed that in the Governor's provinces the existing system of dyarchy should be abolished and that all provincial subjects, including the portfolio of law and order, should be administered in responsibility to the provincial legislatures. (*See* note at end.)

5. *The Composition of the Provincial Executives.*—(a) *Joint Responsibility.*—The sub-Committee recommends that there should be unitary executives; and that the individual Ministers composing the executive should be jointly responsible to the legislature.

(*Raja Narendra Nath awaits the report of the Minorities sub-Committee before agreeing finally to joint responsibility.*)

(b) *The appointment of Ministers.*—The responsibility for appointing Ministers will rest with the Governor. The sub-Committee is of opinion that in the discharge of that function the Governor should ordinarily summon the member possessing the largest following in the legislature, and invite him to select the Ministers and submit their names for approval. The Ministers should ordinarily be drawn from among the elected members of the provincial legislature. In the event of the appointment of a non-eleced non-official, such person should be required by statute to secure election to the legislature (and if the legislature be bicameral, to either chamber) within a prescribed period not exceeding six months, but subject to this limit he may be nominated by the Governor to be a member of the legislature. The

sub-Committee is of opinion that there should be no discretion to permit the appointment of an official to the Cabinet.

(*The Marquess of Zetland and Sir Robert Hamilton dissent from the last two sentences.*)

(c) *Group or communal representation in the Cabinet.*—The sub-Committee considers it a matter of practical importance to the success of the new constitutions that important minority interests should be adequately recognised in the formation of the provincial executives. An obligation to endeavour to secure such representation should be expressed in the Instrument of Instructions to the Governor.

(*Mr. Chintamani dissents from the last sentence.*)

6. *Powers of the Governor.*—(a) *In regard to legislature.*—(1) The Governor shall have power to dissolve the legislature; he may assent or withhold assent to legislation; he may return a bill for reconsideration by the legislature, or reserve it for the consideration of the Governor-General.

(2) It shall not be lawful without the previous sanction of the Governor to introduce any legislation—

(*i*) Affecting the religion or religious rites of any class or community in the Province;

(*ii*) regulating any subject declared under the constitution to be a federal or central subject;

(*iii*) any measure repealing or affecting any Act of the federal or central legislature or Ordinance made by the Governor-General.

(b) *Conduct of business.*—(1) The Governor shall, with the knowledge of his Ministers, be placed in possession of such information as may be needed by him for the discharge of duties imposed upon him by the constitution.

(2) In the opinion of the sub-Committee, the Chief Minister should preside over meetings of the Cabinet; but on any special occasion the Governor may preside.

(c) *Relations of the Governor to his Ministers.*—(1) The Ministers shall hold office during the pleasure of the Governor.

(2) Sub-section 3 of Section 52 of the Government of India Act, which confers a general power on the Governor to refuse to be guided by the advice of his Ministers when he sees sufficient cause to dissent from their opinion shall no longer operate. The Governor's power to direct that action should be taken otherwise than in accordance with the advice of the Ministers, shall be restricted to the discharge of the specified duties imposed on him by the constitution. These duties shall include the protection of minorities and the safeguarding of the safety and tranquillity of the Province.

(d) *Special and Emergency powers.*—There shall be vested in the Governor (1) suitable powers in regard to legislation and

finance necessary for the discharge of the specified duties imposed upon him by the constitution and (2) suitable emergency powers to carry on the administration in the event of a breakdown of government or the constitution. The powers under (2) shall not remain in operation for more than six months without the approval of Parliament expressed by a resolution of both Houses.

The sub-Committee suggests a rider that in their opinion it is desirable that the present rigid convention in Provinces other than the Presidencies of appointing Governors drawn from the Indian Civil Service should be relaxed. (There was some support for the substitution of the word " discontinued " for the word " relaxed ".

(*Sir Chimanlal Setalvad, Sir Cowasji Jehangir and Messrs. Ramachandra Rao, Barooah Chintamani, Joshi, Paul and Ambedkar dissent from the sub-Committee's conclusions on the powers of the Governor.*)

7. *The Composition of the Provincial Legislatures.*—(a) *Their size.*—The sub-Committee anticipates that, to meet the conditions of the new constitutions and electorates, the provincial legislatures will require to be enlarged on the basis of ascertained needs, regard being had to the numbers and character of the constituencies.

(b) *Their lifetime.*—In the opinion of the sub-Committee the normal lifetime of the provincial legislatures should not exceed five years.

(c) *The official bloc.*—With the possible exception of a strictly limited proportion of non-officials who may in some Provinces require to be nominated by the Governor to secure the representation of groups unable to return their own members through the polls, the new provincial legislatures should consist wholly of elected members, and the official bloc should disappear.

(d) *Second Chambers.*—The existing provincial legislatures are unicameral. The sub-Committee recognises that conditions in some Provinces may make it desirable that the provincial legislatures should be bicameral; but the decision to incorporate a second chamber in the new constitution of any Province other than Bengal, the United Provinces and Bihar and Orissa where opinion in favour of a second chamber has already been expressed should not be taken until opinion in the Province definitely favours this course.

[The reference to the Provinces of Bengal, the United Provinces and Bihar and Orissa was inserted at the wish of a majority of the sub-Committee.]

Note.

(1) The question of the administration of the police was raised by Lord Zetland under para. 4, and it was decided that this should be left for the report of the Services sub-Committee when set up.

(2) The sub-Committee did not consider the constitution of the North-West Frontier Province since it was understood that a special sub-Committee would be set up to deal with this subject.

(Sd.) ARTHUR HENDERSON,
Chairman.

St. James's Palace, London;
15th December, 1930.

The following Delegates were members of the sub-Committee:—

Mr. A. Henderson (*Chairman*).

Lord Zetland.
Sir Robert Hamilton.
H.H. The Maharaja of Nawanagar. (Holding a watching brief.)
Sir Prabhashankar Pattani. (Holding a watching brief.)
Rao Bahadur Krishnama Chari. (Holding a watching brief.)
Sir Ghulam Hussain Hidayatullah.
Md. Jadhav.
Sir Chimanlal Setalvad.
Sir Cowasji Jahangir.
Sir Shah Nawáz Bhutto.
Sir Provash Chunder Mitter.
Mr. Fazl-ul-Huq.
Raja of Parlakimedi.
Mr. Ramchandra Rao.
Sir A. P. Patro.
Nawab Sir Ahmad Said Khan.
Mr. Chintamani.
Mr. Tambe.
Mr. Zafrullah Khan.
Raja Narendra Nath.
Sardar Sampuran Singh.
Maharaja of Darbhanga.
Mr. Barooah.
Sir Abdul Qaiyum.
Mr. Wood.
Mr. Paul.
Mr. Joshi.
Dr. Ambedkar.

NOTE ON SECOND CHAMBERS.

CIRCULATED TO ALL DELEGATES AT THE REQUEST OF SIR HUBERT CARR.

The Report of sub-Committee No. 2 dealing with Provincial Constitutions contains the following opinion in 7 (*d*):—

> "The existing Provincial Legislatures are unicameral. The sub-Committee recognises that conditions in some provinces may make it desirable that the Provincial Legislatures should be bicameral, but the decision to incorporate a second chamber in the new constitution of any province other than Bengal, United Provinces and Bihar and Orissa, where opinion in favour of a second chamber has already been expressed, should not be taken until opinion in the province definitely favours this course."

It is now suggested that second chambers in the Provinces would be of the utmost value:—

(1) In giving stability to the administration of a Province;
(2) In assuring the return to the legislature of responsible and responsive Indian statesmen;
(3) In solving the communal disagreement as to the proportion of seats to be held by each community;
(4) In giving effect to the safeguards which Minorities are demanding.

I.

The point has frequently been made and needs no further elaboration, that in any constitution, and particularly in a country where democratic institutions are not fully developed and established, it is extremely desirable that the classes who stand to lose most by civil unrest should be adequately represented in the legislature. It may be doubted whether anywhere democratic electorates have shown sufficient willingness to elect to purely popular assemblies highly educated and experienced men who are neither able nor willing to make a purely electioneering appeal to the imagination of the masses. It is surely desirable that ex-administrators, ex-judges, eminent professors, large landholders and persons prominent in work of social uplift, should have an opportunity of contributing their share to the working of the constitution. In the words of Bryce, one Chamber is apt to contain "too little of the stores of knowledge, wisdom and experience which a country possesses".

II.

The Indian Delegates to the Round Table Conference have shown their statesmanship and their courage in coming to England and in devoting their time and energies to the work of building a new constitution for India. It is a melancholy reflection that probably few of

these Delegates will be elected to the Lower Chambers of the new legislatures which they have designed. During the time they have been away the Congress Party has been active in propaganda amongst the old electors. It is already certain that there will be a considerable increase in the electorate, and the danger of these new voters being stampeded by the only organised political party is very great. In such an event it is unlikely that many responsible Indian statesmen, however distinguished, would have any chance of election if opposed by the Congress organisation. The great services rendered by the late Sir Surenderanath Bannerjee, both before and after the reforms of 1919, did not prevent his being defeated in 1923 by a comparatively unknown candidate representing the Congress Party. At the same election, the late Mr. S. R. Das, afterwards Advocate-General of Bengal and Law Member of the Viceroy's Executive Council, was also defeated in a division of Calcutta where he had lived all his life. The fate which overtook these Co-operators ten years ago will probably overtake the Delegates to the Round Table Conference.

Such a result would not only be an undeserved misfortune for the Delegates themselves, but would clearly be disastrous to the new constitution.

III.

The difficulties which have arisen in distributing seats in the Provincial Councils fairly amongst the different communities are not, in our opinion, capable of final solution in unicameral legislatures. Without expressing any opinion on the merits of the question, we understand that in the Punjab Legislative Council the Moslems are claiming 51 per cent. of the seats, the Sikhs 30 per cent., and the Hindus, not unnaturally, would not be satisfied with the remaining 19 per cent. It appears to us that a hopeful avenue to explore would be substituting bicameral for unicameral legislatures. In such a case it might be possible to persuade one of the communities to be satisfied with less than the representation they are at present demanding in the Lower Chamber if their representation in the Upper Chamber were weighted. We refrain from putting forward any concrete proposals at the present juncture from an unwillingness in any way to prejudice the chances of a satisfactory settlement between the communities.

IV.

It is becoming more and more recognised in Europe that democracy, or the rule of the majority, must be modified by safeguards for the rights of minorities. It is in a Second Chamber that those minorities can most easily and effectively be protected by a few distinguished representatives. Stationed, so to speak, at the bottle neck of the legislature, they can more easily secure the rejection or amendment of a measure, and in a calmer atmosphere of a revising Chamber reason is more likely to secure a hearing, and justice is more likely to be done than in the Lower House.

Nor can one disregard the possibility of the Lower House becoming dominated by some coalition of groups, or even by financial and capitalist interests. In one Presidency there is already a tendency in this direction and a further step towards democracy is likely to increase this danger.

Second Chambers which are strong and effective are invariably elected or chosen upon a different principle from that adopted in the case of the Lower House. Nomination is not usually a satisfactory method, for it is desirable that the Upper Chamber should be able to claim to speak in the name of the people. In India, however, it would be idle to deny that there are many interests which are not at the present time likely to be fairly represented by a system of election, and that many men whose position, experience and prestige would make them valuable recruits to any legislatures would not be willing to stand for election, and would not be elected if they did stand. We would, therefore, make the following tentative proposal.

The Upper Chamber should consist of 40 members, of whom 10 should be nominated by the Governor on his own responsibility from amongst those persons who in his opinion would be suitable members of the Chamber and who would balance any communal disparities in the Lower House. He might be expected to nominate some ex-ministers, ex-judges, and ex-administrators, but no officials.

Ten should be nominated on the recommendation of the Ministry in power for the time being. This would tend to keep the Upper Chamber in touch and in sympathy with the existing Ministry. It would also enable the Ministry to strengthen itself by the addition of prominent men who might not have been successful in retaining their seats in the Lower House.

Ten should be representative of special interests, such as Indian commerce, landholders, agriculture, universities, municipalities and religious leaders, obtained by means of Electoral Colleges. Further, Electoral Colleges of doctors and teachers might elect respectively experts on health and education.

The remaining ten should represent different interests and communities in accordance with the particular requirements of each Province. In most cases these ten should include representatives of Labour, the Depressed Classes, or whatever interests are prominent in the Province concerned.

These Chambers should be perpetual, one-third of the members retiring every third year; and thirty-five should be the minimum age qualification for membership.

The powers of the Upper Chamber should be in all respects equal to those of the Lower Chamber, and wherever there is conflict between the two Houses the matter should be settled by a joint sitting.

We would give to the Upper Chamber concurrent powers with the Lower Chamber over Finance (although the Budget

would naturally be introduced in the latter); and even where the Lower Chamber has thrown out a proposal for taxation or refused to vote a grant, we would enable the Governor, acting upon the advice of his Ministry for the time being, to order a joint sitting at which the rejected proposal would once more be put forward.

It is vital to the success of the new Constitution that everything possible should be done from the start to provide some stability in the Executive under the new Constitution. It must be remembered that the stability of Governments in Great Britain is solely due to the two party system which obtained for so long. Responsible Government in other countries has too often been associated with instability in the Executive which has militated against efficiency of Government.

It is with a hope of avoiding the same unfortunate instability in India that the desirability of establishing Second Chambers in the Provinces is now earnestly commended to the Round Table Conference.

One thing is certain: if Second Chambers are ever to be introduced provision must be made now. It is hopeless to expect that the Lower Chambers will voluntarily apply, at some future date, to be subjected to the restraint of Upper Houses.

A procedure for constitutional amendment might perhaps be introduced to enable Second Chambers to be abolished at some future time if and when all communities are willing to surrender the protection afforded by their existence.

If the feeling is justified that a large number of those who would be of inestimable value in working the new constitution will not, under the changed circumstances, be returned to a Lower House it seems very necessary not to delay in considering most carefully whether Second Chambers in more than three Provinces are not called for.

THE ORIYAS, THEIR NEED, AND REASONS FOR A SEPARATE PROVINCE.

CIRCULATED TO ALL DELEGATES AT THE REQUEST OF THE RAJA SAHIB OF PARLAKIMEDI.

The Oriya problem concerns a population of more than 9½ millions, scattered in four Provinces—Bihar and Orissa, the Central Provinces, Bengal, and Madras—occupying 88½ thousand square miles of country in India belonging to the Aryan race, possessing a literature of their own, well cultured in, and influenced by, Sanskrit. The civilization of the Oriyas dates back to the most ancient times of Mahabharata, and they are at present the followers of Lord Gouranga, the great Saint of the North, who, ages gone by, had preached the all-embracing common brotherhood among the then living races of India and had advanced the most up-to-date cosmopolitan ideals among them. To Lord Gouranga, a Muhamedan, a Sikh, a Punpabi, a Jat, a Napalee, or men of different castes and creeds, were all equal, and among his followers or Bhakthas, Mahomedans are also to be found as staunch and of eminent order. We, the Oriyas of that creed, therefore view each and every Indian through the eyes of our great Lord as of one common brotherhood; inseparable for achieving the one common goal of India's prosperity, equal in status with that of the other Dominions of the British Empire.

We, the Oriyas, who are by nature, creed and religion a most lawabiding race, are of good fighting element, lovers of art, literature, science, and adventure. The Oriyas had seen their brighter days under the great kings of the Ganga dynasty in the 15th century, conquering vast tracts of country from the Ganges to the Kaveri, and it was during this period that their literary attainment reached its zenith. But the brightness of sunshine over the Oriyas and their country began to wane along with incessant raids of their country by the Mahrattas. In 1759 and 1803, and during subsequent years, Orissa was added piece-meal to the British annexations in India, and it is these historical accidents that are responsible for her dismembered condition at present. Under the British rule in subsequent years, no doubt, the Oriyas have progressed, but it is bound to be slow for want of a united Orissa.

In the late Mr. Pathani Samonto, the Oriyas had an eminent astronomer, whose deductions and solutions in astronomy had attracted the attention of the then Viceroy of India—the late Lord Curzon—and these are still accepted by the present up-to-date men of that science, though Mr. Samonto was devoid of all present-day instruments and appliances, and had to depend entirely upon his own fertile brain. Their love of art and capacity in it is explicit in the stone carvings upon the temple walls of Bhuvaneswar, Konark, and the only cosmopolitan great Hindu temple of Puri, in the caves of Khandagiri and Dhavlagiri, and the present

silver and horn works of Cuttack and Parlakimedi. Their taste in literature and music is evident from their poetical works written in Oriya hundreds of years ago, impregnant with original ideas and metaphors, and also original work of signs of expression while singing a song.

But it is all a glory of the past, mostly, which we, the Oriyas, can boast of; and what are we to-day, divided and absorbed in different parts of British India, with no entirety as a race of our own anywhere in the provinces, without suitable representation or encouragement; known as coolies in Bengal and Burma, Untouchables in Madras, and what not in other parts of India?

Is it fair to such a race as the Oriyas, with such culture, ideals and creed, to be the enjoyers now of such abhorrent and pathetic conditions when all the other races of India under the benign British regime are fighting for Dominion Status for India federating with Indian India? Can India be really federal while allowing any of her races to wither and decay?

The fact of the dismembered state can best be realised from an extract from Grierson's "Linguistic Survey of India," in which he says:—

> "The Orissa country is not confined to the division which now bears that name. It includes a portion of the district of Midnapur in the north, which, together with a part of Balesore, was the 'Orissa' of the phrase 'Bengal, Bihar and Orissa, met in the regulations framed by the Government in the last decades of the 18th century. Oriya is also the language of most of the district of Singbhum, belonging to the division of Chotanagpur, and of several neighbouring native states which fall politically within the same division. On the west it is the language 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 Ganiam, 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 p. 367).

To remedy the evils arising out of such a dismembered condition the Oriyas have all along been expressing their desire to remain united. This desire may be dated back to the Mahratta invasion and the British advent into Orissa in the 18th century and the subsequent years, since when the national solidarity has been broken and it remains as it is, scattered and merged inside different provinces of India, absolutely lost sight of among the other more predominating populous communities. To give vent to their most deplorable condition in society and insufficient representation in Government service wherever they are, the first Utkal Union Con-

ference of the Oriyas was held in the year 1902, under the presidency of the late Rajah of Kallikote, which officially started to approach the Government with resolutions for a separate province for the Oriyas. The replies received from the Government from that time up till now, though, have been many times quite encouraging, the much-sought-after Oriya province remains to them to-day at as far a distance as it was when they first approached the Government with their prayer.

Lord Curzon, one of the greatest Viceroys of India, when proposed the partition of Bengal, the Oriya problem was not outside His Excellency's vision, and a separate Oriya province would have been a long-accomplished fact to-day, if only at that time the Provincial Government of Madras was equally sympathetic and generous-hearted to help the Oriyas to regain their past great communal equality with, if not superiority over, the present several predominating communities of India.

The Oriyas that had kept the all-conquering Mahrattas at bay for several years are to-day a minority wherever they exist in the four different provinces of India, and they have become all the more so since the advent of the Montford Reforms to India, not being able to elect an influential element of their own into any provincial legislature sufficient to get legislation passed in their favour. In Bihar and Orissa, out of a total population of 34 millions, the strength of the Oriyas is about 7 millions; in Madras, out of a total population of 42 millions, there are only a million and a half; in Bengal, again, they are an insignificant minority of about 3 lakhs among a population of 46 millions; and they are about the same number in the Central Provinces amongst 14 millions of population.

This state of the dismembered conditions of Orissa has been brought about by merely historical accidents, and particularly the circumstances attending the growth of British power in Orissa. This unnatural bifurcation, vivisection and fragmentation of the country has brought untold miseries on the people; it has not only broken their national solidarity by regular process of denationalisation in the borders of Ganjam and Vizagapatam in Madras, and Midnapur in Bengal, but also has succeeded in ruining their ancient civilisation and literature. Let us for a moment examine the census figures of these tracts. In 1901 the Oriyas in the Ganjam District were 1,274,975, or roughly thirteen lakhs, and while, as per census of 1911, the population of the district increased from sixteen lakhs eighty-nine thousand (1,689,142) to eighteen lakhs seventy thousand (1,870,826), the Oriya population showed a reduction by nearly three lakhs (1911—958,661). Similarly, in the Midnapur District in Bengal the number of the Oriya speakers fell from five lakhs seventy-two thousand (572,798) in 1891 to one lakh eighty thousand (180,801) in 1911, and one lakh forty-two thousand (142,107) in 1921. Although there is no explanation available for such glaring diminution in figures in different provinces, it will be interesting to note here what Mr.

Malony in 1911, as the census officer in Madras, has remarked regarding the fall in figures of Ganjam:—

> "The proportional variation in the case of Ganjam is so remarkable as to suggest either careless enumeration at one census or the other, or else a possibility of deliberate misrepresentation by Telugu or Oriya emunerators not uninfluenced by the contentions which prevailed some five or six years back between the Telugus and Oriyas of the district."

Let me make it clear that the Oriyas are one with the rest in the desire to make rapid but steady progress for the attainment of Responsible Self-Government in India; but what prospect is there for them existing as they are, separated and scattered in different provinces?

About the year 1868, Sir Stafford Northcote, the then Secretary of State for India, saw the defects of administering a tract of country divided and dissected into unnatural boundaries in times of emergency, and in the year 1895 the Commissioner of Orissa, writing the Administrative Report of the Orissa Division, advocated strongly for bringing the Oriya speaking tracts under one administration. He says in his report:—

> "Among the reasons for this change are, as I have said, the uniting in a single division and placing under the same laws and rules the whole local Oriya population, instead of having a portion of it forming an insignificant item of the Central Provinces and another portion forming an equally insignificant item of the Madras Presidency."

He then goes on citing political, ethnological and philogical grounds in support of his proposal. Let us see what another prominent Government official has to say on this matter. H. H. Risley, Esq., C.I.E., Secretary to the Government of India, in his letter No. 3678, dated 3rd December, 1903, to the Chief Secretary to the Government of Bengal, says:—

> "The difficulties arising from the Oriya problem thus created have 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 language (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 Gov-

ernment is unable to retain in it a superior staff, who have become acquainted with the local language and with the local customs which invariably accompanying 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 the drawbacks more conspicuous than among the Oriya-speaking people, distributed, as has been pointed out, between three (*now four*) 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 a distinct and unmistakable factor, with an identity and interests of its own."

In 1917, on the momentous visit of Mr. Montagu to India, the Oriyas again submitted a memorial, under the leadership of Mr. M. S. Das, C.I.E., and the Honourable Rajah of Kanika, the present Finance Member of Bihar and Orissa, and many other influential men for the administrative union of the Oriya tracts as a preliminary to the Reforms; but, except for the recognition of the principle to form provinces on the linguistic basis, giving prominence, of course, to the problem of Orissa, nothing tangible has been done for the Oriyas. As anticipated in the memorial, the position of the Oriyas in every province under the Reforms changed for the worse, as in every provincial legislature the Oriya representatives found themselves in a hopeless minority without being able to influence any decision in their favour against contending forces.

My experience as a member of the Madras Legislative Council is that the position of the Oriyas is unenviable and far from satisfactory, though, in pre-Reform days they had much less to complain of, receiving usually official support and sympathy as a backward community. I have reasons to believe that wherever the Oriyas exist now, their condition is exactly the same, and worse in Bengal, with all the disadvantages pertaining to a minor community among a bigger and more advanced population.

The desire of the Oriya people to be united finds its counterpart in the case of several other Indian communities also.

Let me repeat again, that nothing short of a separate province will satisfy the Oriyas. They will not remain content with any half measures as a part of a major province with any amount of statutory guarantees and declartions.

The demnd for a separate province was embodied in a resolution of the Utkal Union Conference in 1919, which runs as follows:—

> "Believing as it does in the sympathetic recognition of the special claims of the Oriyas for a separate administration, as evidenced by the illustrious authors of the scheme in their proposal for constituting a sub-province for Orissa, this conference desires to place on record its conviction that, unless a separate province, under a Governor-in-Council and legislative assembly with an elected non-official majority be given to the united Oriya-speaking tracts, the proper solution of the question cannot be satisfactorily reached, and the legitimate aspirations of the people concerned cannot be fulfilled."

In the following year, Mr. Sachidananda Sinha, of Bihar, moved in the old Imperial Legislative Council for a mixed committee of officials and non-officials to formulate a scheme for amalgamation of Oriya-speaking tracts. Most of the speakers in the debate welcomed this resolution, but Sir B. N. Sarma advocated a separate province for the Oriyas, to which the whole house agreed. Sir William Vincent, the then Home Member of the Government of India, speaking on behalf of the Government, recognised that there was a very great feeling among the Oriyas for amalgamation, and that the Government was in no sense opposed to an examination of this question. The Phillip and Duff Commission, in 1924, also have recorded the same feeling among the Oriyas.

The position of Orissa as at present has drawn the attention of the Simon Commission, and they regard it as "a glaring example of the artificial connection of areas not naturally related." The Government of Madras in its memorandum to the Simon Commission, favour a separate province for the Oriyas. The Government of Bihar and Orissa, though, point out the financial insufficiency of the future province, is also in favour of a separate Oriya province. The Government of India, in its Despatch on proposals for constitutional reforms, admit the claim of Oriyas for a separate province of their own, suggesting a Boundary Commission to go into this question. The amalgamation of Oriya-speaking tracts has become so urgent and acute that it is feared in some quarters that another commission might delay matters and postpone the great day.

Considering from a practical point of view, Orissa will be a province 88½ thousand square miles, with men possessing everything in common—language, religion, customs and manners—and their number in population can stand favourably in comparison with Assam, Burma and the Central Provinces.

One of the formidable objections incident on the proposal of a separate province is the complaint of financial insufficiency. The difficulty of finance might be a real one, and I do not doubt it for a moment; but at the same time I do not think it an impossibility if only the question is tackled with sympathy and fairness by the

authorities concerned and its mineral wealth fully developed. Did not the Government of India come to the rescue of Assam when she started as a new province? The Oriya Province may be started on identically the same style.

Orissa is a great agricultural country, with vast natural resources and fertility. It is mainly a rice-producing country, with vast tracts of rich soil capable of great agricultural development. If only its rivers are controlled to avoid devastations of flood, it will be a land of wealth instead of poverty. Again, Orissa abounds in forest materials, which provide beautiful building materials, and with her coal, iron, copper, mica, manganese ores, many more industries can be developed to yield a large revenue to meet the needs of administrative cost.

Space does not permit me to say all that I have in mind regarding this question. The title details I have mentioned are done only in the interests of the case. Enough if the immediate solution of the problem has been brought out.

MGIPC—L—VII-9—1-5 31—1,000.



Indian Round Table Conference

12th November, 1930—19th January, 1931

PROCEEDINGS OF SUB-COMMITTEES

(Volume III)

[SUB-COMMITTEE No. III (Minorities)]

CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1931

Government of India Publications are obtainable from the Government of India Central Publication Branch, 3, Government Place, West, Calcutta, and from the following Agents :—

EUROPE.

OFFICE OF THE HIGH COMMISSIONER FOR INDIA,
INDIA HOUSE, ALDWYCH, LONDON, W. C. 2.

And at all Booksellers.

INDIA AND CEYLON : Provincial Book Depôts.

MADRAS :—Superintendent, Government Press, Mount Road, Madras.
BOMBAY :—Superintendent, Government Printing and Stationery, Queen's Road, Bombay.
SIND :—Library attached to the Office of the Commissioner in Sind, Karachi.
BENGAL :—Bengal Secretariat Book Depôt, Writers' Buildings, Room No. 1, Ground Floor, Calcutta.
UNITED PROVINCES OF AGRA AND OUDH :—Superintendent of Government Press, United Provinces of Agra and Oudh, Allahabad.
PUNJAB :—Superintendent, Government Printing, Punjab, Lahore.
BURMA :—Superintendent, Government Printing, Burma, Rangoon.
CENTRAL PROVINCES AND BERAR :—Superintendent, Government Printing, Central Provinces, Nagpur.
ASSAM :—Superintendent, Assam Secretariat Press, Shillong.
BIHAR AND ORISSA :—Superintendent, Government Printing, Bihar and Orissa, P. O. Gulzarbagh, Patna.
NORTH-WEST FRONTIER PROVINCE :—Manager, Government Printing and Stationery, Peshawar.

Thacker Spink & Co., Calcutta and Simla.
W. Newman & Co., Ltd., Calcutta.
S. K. Lahiri & Co., Calcutta.
The Indian School Supply Depôt, 309, Bow Bazar Street, Calcutta.
Butterworth & Co. (India), Ltd., Calcutta.
M. C. Sarcar & Sons, 15, College Square, Calcutta.
Standard Literature Company, Limited, Calcutta.
Association Press, Calcutta.
Chukervertty, Chtaterjee & Co., Ltd., 13, College Square, Calcutta.
The Book Company, Calcutta.
James Murray & Co., 12, Government Place, Calcutta. (For Meteorological Publications only.)
Ray Choudhury & Co., 68-5, Asutosh Mukherji Road, Calcutta.
Scientific Publishing Co., 9, Taltolla Lane, Calcutta.
Chatterjee & Co., 3-1, Bacharam Chatterjee Lane, Calcutta.
Standard Law Book Society, 8-2, Hastings Street, Calcutta.
The Hindu Library, 3, Nandalal Mullick Lane, Calcutta.
Kamala Book Depôt, Ltd., 15, College Square, Calcutta.
*Bengal Flying Club, Dum Dum Cantt.
Kali Charan and Co., Municipal Market, Calcutta.
B. C. Basak, Esq., Proprietor, Albert Library, Dacca.
Higginbothams, Madras.
Rochouse and Sons, Madras.
G. A. Nateson & Co., Publishers, George Town, Madras.
P. Varadachary & Co., Madras.
City Book Co., Madras.
Law Publishing Co., Mylapore, Madras.
The Booklover's Resort, Taikad, Trivandrum, South India.
E. M. Gopalakrishna Kone, Pudumandapam, Madura.
Central Book Depôt, Madura.
Vijapur & Co., Vizagapatam.
Thacker & Co., Ltd., Bombay.
D. B. Taraporevala Sons & Co., Bombay.
Ram Chandra Govind & Sons, Kalbadevi Road, Bombay.
N. M. Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay.
New and Secondhand Bookshop, Kalbadevi Road, Bombay.
J. M. Pandia & Co., Bombay.
A. H. Wheeler & Co., Allahabad, Calcutta and Bombay.
Bombay Book Depot, Girgaon, Bombay.
Bennett Coleman and Co., Ltd., The Times of India Press, Bombay.
The Manager, Oriental Book Supplying Agency, 15, Shukrawar, Poona City.
Rama Krishna Bros., Opposite Vishrambag, Poona City.
S. P. Bookstall, 21, Budhwar, Poona.
Mangaldas & Sons, Booksellers and Publishers, Bhaga Talao, Surat.
The Standard Book and Stationery Co., 32-33, Arbab Road, Peshawar.
The Students Own Book Depôt, Dharwar.
Shri Shankar Karnataka Pustaka Bhandara, Malamuddi, Dharwar.
The Standard Bookstall, Karachi, Quetta, Delhi, Murree and Rawalpindi.
*Hossenbhoy Karimji and Sons, Karachi.
The English Bookstall, Karachi.
The Standard Bookstall, Quetta.
U. P. Malhotra & Co., Quetta.
J. Ray & Sons, 43 K. & L., Edwardes Road, Rawalpindi, Murree and Lahore.
The Standard Book Depôt, Lahore, Nainital, Mussoorie, Dalhousie, Ambala Cantonment and Delhi.
The North India Christian Tract and Book Society, 18, Clive Road, Allahabad.
Ram Narain Lal, Katra, Allahabad.
The Indian Army Book Depôt, Dayalbagh, Agra.
Narayan & Co., Meston Road, Cawnpur.
The Indian Army Book Depôt, Jullundur City, Daryaganj, Delhi.
Manager, Newal Kishore Press, Lucknow.
The Upper India Publishing House, Ltd., Literature Palace, Ammuddaula Park, Lucknow.
Rai Sahib M. Gulab Singh & Sons, Mufid-i-Am Press, Lahore and Allahabad.
Rama Krishna & Sons, Booksellers, Anarkali, Lahore.
Students Popular Depôt, Anarkali, Lahore.
The Standard Bookstall, Lahore.
The Proprietor, Punjab Sanskrit Book Depot, Saidmitha Street, Lahore.
The Insurance Publicity Co., Ltd., Lahore.
The Punjab Religious Book Society, Lahore.
The Commercial Book Co., Lahore.
The University Book Agency, Kachari Road, Lahore.
Manager of the Imperial Book Depôt, 63, Chandney Chawk Street, Delhi.
J. M. Jaina and Bros., Delhi.
Fono Book Agency, New Delhi and Simla.
Oxford Book and Stationery Company, Delhi, Lahore, Simla, Meerut and Calcutta.
Supdt., American Baptist Mission Press, Rangoon.
Burma Book Club, Ltd., Rangoon.
S. C. Talukdar, Proprietor, Students & Co., Cooch Behar.
The Manager, The Indian Book Shop, Benares City.
Nand Kishore & Bros., Chowk, Benares City.
The Srivilliputtur Co-operative Trading Union, Ltd., Srivilliputtur (S. I. R.).
Raghunath Prasad & Sons, Patna City.
The Students' Emporium, Patna.
K. L. Mathur & Bros., Guzri, Patna City.
Kamala Book Stores, Bankipore, Patna.
G. Banerjea and Bros., Ranchi.
M. C. Kothari, Raipura Road, Baroda.
The Hyderabad Book Depôt, Chaderghat, Hyderabad (Deccan).
S. Krishnaswami & Co., Teppakulam P. O., Trichinopoly Fort.
Karnataka Publishing House, Bangalore City.
Bheema Sons, Fort, Bangalore City.
Superintendent, Bangalore Press, Lake View, Mysore Road, Bangalore City.

AGENT IN PALESTINE :—Steimatzky, Jerusalem.
* Agent for publications on aviation only.

INTRODUCTORY NOTE.

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

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

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

TABLE OF CONTENTS.

	PAGE.
SUB-COMMITTEE No. III (MINORITIES)	1—186
Members	1
Terms of reference	1
1st Meeting, 23rd December, 1930	1--22
2nd Meeting, 31st December, 1930	22--50
3rd Meeting, 1st January, 1931	51—92
5th Meeting, 6th January, 1931	93—122
4th Meeting, 14th January, 1931	122—128
6th Meeting, 16th January, 1931	128 -154
Report	155—159
APPENDIX I.—Letter from Maulana Muhammad Ali . . .	160—167
APPENDIX II.—A scheme of political safeguards for the protection of the Depressed Classes, by Dr. Ambedkar and Rao Bahadur Srinivasan	168—176
APPENDIX III.—Claims of the Indian Christian Community by Mr. K. T. Paul	177—182
Fundamental Rights	183—186
Diwan Bahadur Ramachandra Rao.	

INDIAN ROUND TABLE CONFERENCE.

SUB-COMMITTEE No. III.

(Minorities.)

The sub-Committee was constituted as follows:—

Mr. Ramsay MacDonald (*Chairman*).
Sir W. A. Jowitt.
The Earl Peel.
Major The Hon. O. Stanley.
The Marquess of Reading.
Mr. Isaac Foot.
H.H. the Aga Khan.
*Maulana Muhammad Ali.
Dr. B. R. Ambedkar.
Sir Hubert Carr.
Mr. C. Y. Chintamani.
The Nawab of Chhitari.
Mr. Fazl-ul-Huq.
Mr. A. H. Ghuznavi.
Lieut.-Col. H. A. J. Gidney.
Khan Bahadur Hafiz Hidayat Husain.
Mr. N. M. Joshi.
Sir Provash Chunder Mitter.
Dr. B. S. Moonje.
Raja Narendra Nath.
Rao Bahadur Pannir Selvam.
Sir A. P. Patro.
Mr. K. T. Paul.
Diwan Bahadur M. Ramachandra Rao.
Mr. B. Shiva Rao.
Sir Sultan Ahmed.
Sir Muhammad Shafi.
Sardar Sampuran Singh.
Mr. Srinivasa Sastri.
Sir Chimanlal Setalvad.
Sir Phiroze Sethna.
Dr. Shafa'at Ahmad Khan.
Begum Shah Nawaz.
Rao Bahadur Srinivasan.
Mrs. Subbarayan.
Sardar Ujjal Singh.
Mr. Zafrullah Khan.

with the following terms of reference.

" The provision to be made to secure the willing co-operation of the minorities and the special interests."

PROCEEDINGS OF THE FIRST MEETING OF SUB-COMMITTEE No. III (MINORITIES) HELD DECEMBER 23RD, 1930, AT 11 A.M.

Chairman: I need not say to you how very important the work of this sub-Committee is. A settlement of the miorities question

* Sir Shah Nawaz Bhutto served on the sub-Committee after the death of Maulana Muhammad Ali.

is essential to the political progress of India, and that is not merely a British view. I am sure that is the view held by every enlightened Indian, irrespective of the community to which he belongs, or whatever the interest with which he is specially concerned. It is, moreover, a question which ought to be settled by you and between yourselves. It is no good your starting the working of an Indian constitution, and asking any outside authority to settle what is one of the essential conditions of the successful working of that constitution. Therefore, in stating your case and in making suggestions, I hope you will bend all your energies to creating an atmosphere of goodwill and progress. I need not say more than that. I do not know if you have arranged amongst yourselves who is going to open or how the conversation is going to be conducted. I am in your hands. I do not know whether the Hindus, the Muhammadans, or any of the other interests have agreed to open the discussion. I just repeat that I beg of you to make your statements in such a way that peace will be at the end of them rather than continued disagreement.

Begum Shah Nawaz: Mr. Prime Minister, with your permission, Sir, I should like to say a few words to my countrymen assembled here to-day.

Gentlemen, the time for emotional speeches and long appeals for unity is passed, and the time for practical proposals and solid constructive work has arrived. If you are not going to settle your differences now, when is that auspicious time to come? You have come seven thousand miles away from your home, making tremendous sacrifices for the sake of your country, to be the masters in your own home has been your aim and object. Now that the time for the realisation of that hope has come, when it is for you to ask, and to ask with all the force at your command, is it wise that you should remain divided in your own ranks? I beg of you again just to think that the success of all your mission lies in Hindu-Muslim unity. United we stand, divided we fall. Brothers in flesh and blood, born of one soil, living side by side, working and enjoying life together. When the time comes for you to fight for the sake of your Motherland you hesitate and you remain divided.

To my Hindu brethren I have only one word to say. Be generous to your Muslim brother. Think that if you or he enjoys any privilege, it is an Indian who is enjoying it. Generosity breeds gratitude, and when one gives, and gives with love, the other cannot help giving with love in return. Trust the Muslims as your brother countrymen, and you will not find them wanting in confidence and love in return. The majority can well afford to be generous.

To my Muslim brethren I make an earnest appeal not to be too exacting. One here or two there does not matter, especially when it happens to be the question of the freedom of your Motherland. If your Hindu brethren are not generous it is for you to show them that the Muslim knows how to be generous.

I make an earnest appeal to you gentlemen on behalf of the women of India to settle all your differences now. As sisters we

expect of you, as daughters we beg of you, as mother we demand of you to come to a settlement. You have a Chairman who has been so sympathetic, so willing to help you to solve all your difficulties. He has won the gratitude of the whole of India by his trying to bring you together. With him in the Chair you could not have a better time. Do not disappoint him, all the friends of your country, and us, the women of India.

Mrs. Subbarayan: May I support the appeal made by my colleague. It is with great hesitation that I venture to say a few words on this most difficult subject, the minorities problem, which is hampering India's progress towards full nationhood. I do so because of my earnest desire that India shall become a united nation with undivided aims. I am anxious that the new constitution should accelerate and not retard the growth of nationhood and unity throughout the length and breadth of India. Whatever our creed, we are all Indians, and if we are united we have a wonderful future before us. It is to our common citizenship in the future that we must all turn our thoughts. It is on the future that we must concentrate. I do not mean that in doing so we should ignore the present, which, to our great regret, has its difficulties and differences. If safeguards are necessary now, if only to allay the fears of the minorities, they should be such as will help and not hinder the development of a common Indian citizenship. To every project suggested, let us apply the principle: Is it going to make or mar the progress towards Indian nationhood? I feel, and I say it most respectfully, that if the future is constantly and more prominently in our minds, a settlement of our difficulties should not be impossible.

As a woman, my first thoughts are directed towards our children and the future generations. I feel that any solution of this problem should tend to make the lot of the future generations easier and better than has been ours. We should take care not to introduce anything in our constitution which would foster and increase the differences which unfortunately exist to-day. I earnestly appeal to my fellow-delegates to realise our responsibilities to the generations of the future.

May I add a word of thanks to you, Mr. Chairman, for your efforts to help us to come to a settlement. I trust that under your guidance and with your help, and, may I also add, with the help of the whole of the British Delegations, this most thorny question may be settled, so that in the future, a United India may find peace, happiness and contentment.

Chairman: There are two or three points that must be present to all our minds in approaching the discussion of this minority problem. I think we all agree about this—that the goal you are trying to attain is a sense of security, something that will guarantee that historical interests, and other interests, will not be sacrificed under the working of the new constitution. We also hope that by the working of that constitution itself much of the uncertainty which is in our minds at the moment will disappear. Our problem

is to get all the communities and all the interests to co-operate to begin and work the constitution, and so far as I have been able to gather the case that has been put up to me by the various minorities and communities is that that beginning cannot be made unless we assume, to begin with, that there is a feeling of uncertainty, and provide some machinery, which we all hope will be temporary, for meeting that sense of insecurity, or establishing a feeling of security and allowing it to produce its good fruits in the future.

There have been, therefore, two or three suggestions made to me, one the suggestion of separate electorates for the time being; another, joint registers but with reserved seats; another, weightage for certain communities and interests under existing conditions; and the fourth—and I think this exhausts all the important ones that you have brought to my notice—nomination on the ground that there are certain communities either so disorganised at present or so weak in their numbers, that they require to have special consideration which can only be given, they say to me, by some system of nomination. I think that exhausts the definite proposals which have been made to me, and it would be advisable that we should direct our attention to those points now. There are consequences and sub-divisions of these, but I have not mentioned them because these sub-divisions are in all your minds, I am quite certain.

Raja Narendra Nath: There is another important point besides the question of reservation and representation, and that is the declaration of rights which are declared by the constitution to be unassailable by a majority community. That point has not been discussed in your presence, Sir, but I think it is of very great importance, and perhaps of greater importance than either of the questions of reservation or of representation. A demand has been made by all minorities, by Muhammadans in some Provinces in which they are a minority, by Anglo-Indians and by Depressed Classes, that there ought to be certain rights enumerated in the constitution which should be declared to be unassailable and inviolable by any community or race or creed. That is another point to which I should like to invite the attention of the Conference, and to which I hope the Conference will devote the attention which it deserves.

Mr. Shiva Rao: I was going to ask you whether you are going to confine the discussion at the moment to the Hindu-Muslim question, or whether you are going to permit a general discussion of all minority and special interests, because I think it would be desirable in the first instance to have a general discussion.

Chairman: Yes, that is in my mind.

Mr. Shiva Rao: So that the Committee will have an appreciation of the whole position, and will be able to understand the details of each question better in the light of a general discussion on the whole question.

Chairman: That is so.

Mr. Shiva Rao: Am I at liberty to speak on behalf of the special interests which Mr. Joshi and I represent at this Conference—namely, those of Labour?

Chairman: Yes.

Mr. Shiva Rao: Mr. Joshi has already indicated, in his speech in the Plenary Session of the Conference, some of the essential requirements of labour. He pointed out, in advocating complete self-government for India, that it would be necessary in the new constitution to keep labour legislation and administration of labour as a Central or Federal subject if Federation should come into existence, and he also pointed out the necessity for keeping in the hands of the Central Government the implementing of all International Conventions and obligations. He also said that there should be a certain amount of uniformity in regard to labour legislation as between British India and the Indian States. I shall not elaborate that point, because it is one which is familiar to most of us, and I shall therefore content myself with saying that Indian employers have already thrown out the warning that unless labour legislation in the States is brought up to the same level as it is in British India at the present moment they will not hereafter be able to support any labour legislation in British India; and I think the point gains force from this fact—that the Indian States have been represented at every session of the League of Nations and they cannot very well evade the obligations of carrying out the Conventions of the International Labour Conference in Geneva.

Then Mr. Joshi, at the meeting of the Franchise Committee yesterday, advocated also the introduction of adult suffrage on the ground that it is not only essential to have self-government in India, but also that there should be in a self-governing India as wide a distribution of political power as possible.

Now, in addition to these points I should like to make one or two concrete suggestions at this meeting. We want to see in the new constitution a Declaration of Right for Labour, and we have prepared here a draft declaration which, in our opinion, would be useful to introduce into the new constitution:—

> " Recognising that the well-being, physical, moral and intellectual, of the workers of India is of supreme importance in ensuring the peace, progress and prosperity of the country, and recalling the solemn obligations of India as a Member of the League of Nations and of the International Labour Organisation to endeavour to secure and maintain fair and humane conditions of labour for men, women and children, and to collaborate in the international establishment of social justice, the Commonwealth declares the following principles to be accepted as fundamental principles of the constitution, and as regulating the exercise of the legislative, executive and judicial powers within the Commonwealth:
>
> " (1) It is the duty of every citizen so to use his mental and bodily powers as to contribute to the welfare of the community,

and correspondingly it is the duty of the community to secure, so far as lies in its power, that every citizen shall be given the training and opportunities necessary to enable him to maintain by his work a decent standard of living;

" (2) The Indian Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, the securing of a living wage for every worker, and provision against the economic consequences of old age, infirmity and unemployment;

" (3) The protection of motherhood and the rearing of the rising generation to physical, mental and social efficiency are of special concern to the Commonwealth. Women, young persons and children shall therefore be protected against moral, spiritual or bodily injury or neglect, and against exploitation and excessive or unsuitable employment;

" (4) The welfare of those who labour shall be under the special protection of the Commonwealth, and the conditions of labour shall be regulated, from time to time as may be necessary, with a view to their progressive improvement;

" (5) The right of workers to express their opinions freely by speech, writing or other means, and to meet in peaceful assembly and to form associations for the consideration and furtherance of their interests, shall be granted by the Commonwealth. Laws regulating the exercise of this right shall not discriminate against any individual or class of citizens on the grounds of religious faith, political opinon or social position;

" (6) No breach of contract of service or abetment thereof shall be made a criminal offence;

" (7) The Commonwealth shall co-operate with other nations in action to secure the realisation of the principles of social justice throughout the world;

" (8) All citizens in the Commonwealth have the right to free elementary education without any distinction of caste or creed in the matter of admission into any educational institutions maintained or aided by the State and such right shall be enforceable as soon as due arrangements shall have been made by competent authority;

" (9) All citizens are equal before the law and possess equal civic rights;

" (10) All citizens have an equal right of access to and use of public roads, public wells and all other places of public resort."

Sir, we are aware that a Declaration of Rights may not have any legal binding authority, but it seems to us to possess such moral force that it would be very useful in the interests of Labour to have such a Declaration of Rights in the new constitution. I should like to point out that many of these provisions have been taken from the Nehru Report, and some of the others are from some of the new constitutions of post-war Europe.

Then, Sir, from the point of view of Labour it seems to us necessary that the new constitution should be so framed that changes not be made impossible, because in our opinion when a new generation of Indians has come into existence, free from all the communal obsessions of the present, and has gained actual experience of working the new constitution, then changes will seem very desirable. It seems to us essential, therefore, that changes in the constitution should not be made difficult when that stage arrives.

There is another point which is of special interest to us, namely the question of the special representation of Labour. Mr. Joshi put forward the view that adult suffrage is essential. We do not know whether that point will be carried, but it seems likely that a majority of the Franchise sub-Committete will be against the introduction of adult suffrage immediately, and, if that should prove to be the case, I think we shall have to press for the special representation of agricultural and industrial labour both in the Provincial Legislatures and in the Central Legislature in the new constitution. At present the position is that employers and landlords have special representation given to them both in the Provincial and in the Central Legislatures, and one of our standing complaints has been that Labour has been very badly and unfairly treated under the Montagu constitution.

Finally, Sir, I should like to make one general observation before I sit down.

Chairman: You have no proposal to make as to how this special representation is to be secured?

Mr. Shiva Rao: On the population basis.

Chairman: A special register?

Mr. Shiva Rao: Special constituencies, both for agricultural and for industrial labour.

Sir, it seems to me that rather too much has been made of the communal difficulties in India, and it has been overlooked that these difficulties concern in the main only the educated classes in India. For the masses, who form about 95 per cent. of the population, the one problem is how to keep off starvation and disease and death from their doors. It is my experience, as I think it is the experience of everyone who has been connected with the trade union movement in India, that during the last ten years we have had singularly little communal difficulty in our trade unions. Speaking for myself, if I believe, as I do most profoundly believe, in the introduction of immediate self-government in India, it is not because of the educated classes; very often it is in spite of them. I have a very great respect for the practical sense and spirit of self-sacrifice which animate the working classes in India, and I think it would be wrong to allow communal difficulties so to obsess our minds as to obscure the real problems of India, which affect, as I have said, 95 per cent. of the population.

Sir A. P. Patro: If I rise to speak at this stage, I do so for myself and for the party which I represent; I do not speak on behalf of the Liberals, but on behalf of the party I represent,

namely, the Justice Party in Southern India. We feel that security and confidence should be inspired in the minds of all classes and communities in order to work the new constitution. As one who has been associated very intimately with this problem for the last ten months, and who has come in contact with the leaders on both sides, I regret to state that the differences could not be adjusted in India before we came over here. It is also painful that even now we have not been able to adjust these differences. Noble efforts have been made by the Chairman to advise both sides on the importance of this issue, but even to-day we have not seen light.

I feel it most painful that this problem should in any way affect the constitutional progress of India. I am confident that it would not in fact affect the constitutional progress of India and the establishment of responsible government. However, for harmonious and peaceful working, and in order that each community and class may have confidence and trust in the other, so that they may be able to work the constitution together, it is in the highest degree essential that this problem should be solved.

As you, Sir, have very rightly pointed out—the first and foremost question is whether representation in the Legislatures should be on the basis of joint electorates or on the basis of separate electorates, and what should be the safeguards and what should be the rights of both parties in either case. On this matter both parties, so far as Hindus and Mussalmans are concerned, are very definite and very strong. At one stage it had become possible that this matter could have been solved and the difficulty adjusted on the basis of joint electorates with certain reservations, but that has become impossible. The Mussalmans on the one hand claim that they can obtain security and the protection of their rights only by having separate electorates. On the other hand the Hindus and others feel that constitutional progress can be achieved harmoniously only by means of joint electorates. It is no use concealing this fact; it has become too clear now to be passed over. One school of thought—the Nationalists, and all those who aspire for the amalgamation of all communal interests and classes—think that it is highly desirable that we should proceed with a joint electorate system which would bring the two communities together and unite them ultimately as one nation and one people to work out the reformed constitution. On the other hand, the other side feel that unless the safeguards and the protection for which they ask are accorded to them, they cannot trust the Hindu majority in the eight or nine Provinces where they are in a minority unless they have at least similar rights in the two or four Provinces where they are in a majority. That is the issue. The Mussalmans feel—and in my opinion rightly feel—that while the Hindus enjoy power and influence in eight or nine Provinces, that at least in two or four Provinces they should have a similar right and a similar power. That is the bottom of all these communal differences.

How can we adjust this desire expressed by one side or the other? It seems to me all the efforts have been made in the direction of

convincing one another, but when people are not willing to place their trust in each other the only solution, I would venture to suggest, is what has been proposed in the Despatch of the Government of India. After hearing the difficulties on both sides and the differences on both sides, I think the best solution—temporarily—would be to act on the basis of the recommendations of the Government of India, who elaborate and improve on the recommendations of the Statutory Commission. In that way it seems possible to find a solution which will be satisfactory to all parties and to the minorities.

Sardar Ujjal Singh: No.

Sir A. P. Patro: The Sikhs may say " No ", but let me in all humility and earnestness appeal to them. For the sake of the Sikhs we cannot break down the proposed constitution. I have great respect for the Sikh demand and I have great regard for their position, but they, as a single community in one Province, cannot and shall not stand in the way of the constitution and interfere with the unity of all parts of India. I appeal to my Sikh friends to be more generous and more patrotic than they have shown by their emphatic negative. Their claims will be carefully considered.

But, Sir, there is the suggestion or solution proposed by Government, which has considered all the aspects of the problem in India. In the Madras Presidency we have now discarded the claim for reservation of seats. At the beginning of the Reforms we fought hard; we sent representatives to England and asked for reservation of seats and for special protection, although we were in fact in the majority both according to the population and voting strength. We did this because we realised the influence of a particular class or a particular community in the Southern Province which was more powerful than ourselves and which had a sort of full monopoly in every respect; it was on that account that we thought we should have special protection. That special protection was given to us, and we consolidated our position and organised our work. The result is that we have our organisation in every taluq and in every district; we feel strong, and we no longer feel that we have any need of special protection, and therefore we do not want reservation of seats any longer. If this aspest of the problem is to be considered, and if my Mussalman friends feel they will be at a disadvantage in the Provinces where the Hindus are in a majority, safeguards granted to the Mussalmans where they are in a minority, protection granted to the Hindus where they are in a minority, I feel the difficulty will be largely removed. I feel that instead of indulging in controversy on the subject—and many arguments could be raised on both sides—it is better to take a substantial basis on which we can work, and I think we might take the recommendations of the Government of India and improve them or modify them as may be found necessary in the interests of all. The Sikhs suggest there should be some modification in their favour, let them have it for instance. We must work on something that is substantial.

The question has been raised of what should be the proportion of reservation, and it has sometimes been asked whether a majority population can claim safeguards and protection. It has often been put to me " Can a majority population claim protection and safeguards whilst by their numerical strength and by their votes they can control the destinies of a Province?". My answer to that is that the experience of the past has shown that though in the population they may have a majority they have not been able to acquire power and influence proportionate to their population and to their voting strength. It is this that we have to consider it is no use closing our eyes and relying on theory. Theory is all very well, but we have to have regard to what has been our experience up to now, and we must recognise that the theoretical argument will not hold good in practice.

With regard to the problem of the Depressed Classes, I regard this as of as much importance as the problem of the Hindus and Mussalmans, because in the South of India the problem of the Depressed Classes is one which is of great importance. They form a very large population in the South of India, and their social and economic position is so miserable that they will be helpless unless some special protection is afforded to them in Southern India and elsewhere where they are in large numbers; unless special protection is accorded to them it will not be possible for them to develop and to progress politically. It is more essential that attention should be paid to their interests at the present time than that regard should be had to the interests of the educated classes and communities.

Mr. Shiva Rao has referred to the agricultural classes and Labour, and he says there have been no communal differences in the case of the Labour movement. I should like to remind him, however, that in Southern India even among the Depressed Classes themselves there is communal feeling; one untouchable will not touch another untouchable or take water from him. Mr. Shiva Rao must be aware of the fact that even among the Depressed Classes communal jealousy exists and there is communal strife, so that it is impossible for all the communities among the Depressed or Labouring Classes to work together. You cannot generalise about them, and as long as caste rules the country you cannot ignore the communal trouble to which it gives rise. I do not in the least want to exaggerate; I am only pointing out the facts of the position and the impossibility of ignoring them.

We must therefore try to adjust these differences. Can we adjust them by means of the joint electorate system? I stand for joint electorate; I do not deny that that is the best system we can devise, but is it expedient at present to have the joint system? I suggest that it is necessary to consider all the difficulties and to have regard to our experience of the past. We have experience of the working of the present Reforms in Southern India, and in the light of that experience I would most respectfully suggest to this sub-Committee for its consideration that we should take as a basis the recommendations of the Government of India, which personally

I feel go very far towards meeting the difficulties on both sides; towards meeting the difficulties, that is, of the Hindus, the Muhammadans and the minorities generally. I suggest we work out a scheme on the basis of that, instead of each section or each class proposing its own scheme, for in the latter case there will be no end to the schemes and proposals which will be placed before us. I therefore venture to place this suggestion before the sub-Committee for its consideration, namely that we take these recommendations as a basis for the purpose of securing a fuller and more suitable adjustment of the difficulties before us.

Sir P. C. Mitter: There are occasions when it is desirable to speak the truth, but in speaking the truth it is equally desirable that no bad blood should be raised. We all know that in Bengal the communal difficulty is present. I am glad to say that it may not be as difficult there to solve the communal problem as it might be in the Punjab; nevertheless in the last few years there has been a communal difficulty. I approach the question from one point alone, namely, how to solve the problem so that we can run the constitution. Unless there be mutual give and take between the Hindu and the Muslim we cannot hope to gain the object which we nationalists—be we Muslims or be we Hindus—have in view. Therefore it is a question of approaching nationalism with due regard to realism. What are the practical difficulties? It can be well understood that if we have communal cleavages, if our future democracy be one section Hindu, one section Muslim, one section Sikh and one section the Depressed Classes, then, although we may get nationalism, it will be by a much longer path.

I want to place before the Conference some of the peculiar difficulties of my Province. It is well known that in Bengal agitation—I am not using that word in any bad sense—for political advance, and against decisions not in conformity with the desire of the people, started long before similar agitations began in other Provinces. There is a far larger number of the educated middle classes in Bengal than in any other Province. In Bengal the voice of those who stand out for independence and for cutting adrift from the British Commonwealth of Nations is much stronger than in some of the other Provinces. There is on the one extreme the terrorists and the anarchists. At the other extreme there are political men who are perfectly honest and who have nothing whatever to do with terrorists or anarchists, but who also passionately believe in cutting adrift from the British Commonwealth of Nations.

I would appeal to my Muslim brethren from Bengal—because they know Bengal much better than many of my friends from other Provinces do—that if amongst those who are willing to run the constitution, if by our decisions we take away some of them from the line of running the constitution, then they will be leaving the Bengal Hindus in a very difficult position so far as running the constitution is concerned.

I am glad to say that in my informal discussions with my Muslim brethren from Bengal I did not find very great difficulty;

the difficulty was one of another nature. There are difficulties which, for the sake of the object I have in view, I will not mention publicly.

Let us see what will be the effect of the acceptance of the Despatch of the Government of India. If we accept that Despatch it follows that we ought to accept their conclusions about constitutional advance. They were advising on a constitutional advance, and on the basis of a constitutional advance on which they were willing to go. They made certain suggestions. If you take their constitutional advance, I would like to put it to my Muslim brethren first and then to the British Delegations: Are you honestly satisfied that the passionate desire for equality which is running through the Indian breast to-day, be it Muslim or Hindu, will be satisfied? Have not we made it abundantly clear that all sections want responsibility in the Centre? Does the Government of India Despatch give us responsibility in the Centre? It is for us, the Muslims and the Hindus, to decide what we shall have. I am not suggesting any definite proposal to-day, because I desire further to discuss the matter, as I have done in the past, with the Muslim Delegates and other Muslim friends, who have taken a better note of the realities than some of my Hindu friends, at any rate as regards Bengal. I appeal to all not to try to force the issue.

Before I conclude I would like to say one word to the members of the British Indian Delegation, namely, judge for yourselves about the future of India. Judge for yourselves whether, if the present difficulties continue, there will not be a very real risk of Indian society being disrupted. It may take five, ten or fifteen years, but the risk is there. Believe me, you also will not escape the consequences. If Indian society gets disrupted your society will be seriously affected. You cannot afford to have one-fifth of the human race disrupted.

Chairman: I hope my friend will try to keep to the point.

Sir P. C. Mitter: Let us have an opportunity of settling our differences. We have been trying our best to do so here, but there are difficulties. Mandates are coming to both the communities. (Several Members: " Not to us ".)

I would like to know if my Muslim brethren are willing to proceed on the basis of joint electorates in spite of the mandates from India. If so I am prepared to negotiate. We have the next few days in front of us, and we may negotiate and come to some decision if it be on the basis of joint electorate. My object in asking for joint electorate is that it is the beginning of nationalism.

Raja Narendra Nath: As reference has been made to the Government of India Despatch, and as it has been suggested that it should be taken as the basis of discussion, I should like to offer a few remarks. Sir A. P. Patro, one of my best friends, comes from Madras. As far as Madras is concerned, he is not affected by the proposals of the Government of India. It is for us to say how we take the Government of India Despatch, and in what light we

consider it. Sardar Ujjal Singh raised an emphatic " No " when reference was made to the Sikh claims. I was silent, although in a very low tone I also supported him. I wish to point out to the Conference—and I want all the Members to take note of this—that the Government of India Despatch is based on the proposals of the Punjab Government, and the Punjab Government proposals are founded on a series of statements which, I am sorry to say, are erroneous.

In the first place the Punjab Government Despatch says that the Hindus form 31 per cent. of the population. This is on page 170. That is wrong. The Hindu population form nearly 32 per cent. of the whole population; that is to say, it falls short of 32 per cent. by ·02. There is a variation suggested of one or two seats on this side or on that side. Therefore we have to examine thoroughly that proposal, and to see how far it is supported by the facts on which it is founded. In counting the Hindu seats allotted to special constituencies, at page 171, as four, the Punjab Government Despatch counts the Commerce seat as a Hindu seat. This is wrong. The Commerce seat is not a Hindu seat. It is the Industry seat which is a Hindu seat, and if Commerce is credited to the Hindu seats the Hindus will not get in through that constituency. Labour is described as " indeterminate ". That is wrong. Labour is not indeterminate; it is mostly a Muslim seat. On this calculation the Hindu representation in the Punjab is reckoned as 39, which, out of the total representation of 134 seats, counts as 29·1; that is, nearly 3 per cent. below its proportion in the population. The Hindu minority is not referred to anywhere as a minority. I do not see why it should not be considered as a minority community. We are 32 per cent. of the population. Does not that constitute by itself a minority? As a minority community we do not claim any protection or any weightage. We simply want that the representation of Hindus, as it has been slightly below the numerical proportion, may be kept at its former figure and proportion. The Punjab Government's proposals reduce them to a figure which is nearly 3 per cent. below their numerical proportion of the population. Is that the way in which, so far as the Hindu minorities are concerned, the declaration, which constitutes an important pledge of protecting the interests of the minorities, is to be respected? I do not see any justice in the proposals which have been made. Yet Sir A. P. Patro says that the Government of India Despatch is the most fair proposal and should be taken as a basis of discussion. I think that Despatch is the last document which ought to be looked at so far as justice to the minorities is concerned. We are a minority and we claim justice and fairness too. Why should our seats be reduced considerably beyond our proportion in the population? That is all I have to say with regard to Hindu representation and the proposals of the Government of India so far as they have effect on Hindu representation in the Provincial Council. As far as the Sikh representation is concerned, my friend Sardar Ujjal Singh will get up and say what he feels about the Government of India proposals. It is for us who are affected by them in the Punjab to judge of the

fairness of the Government of India's proposals, and it is not for those from other Provinces to make any pronouncement about them.

Chairman: I wonder if our Sikh friend could now enlighten us.

Sardar Sampuran Singh: As I rise to say something on this point I do so with a very heavy heart. It is a very unpleasant task to quarrel about little things, but at the same time it is absolutely necessary that one has to safeguard his interests at a place where he and after him his children have to live. When standing here I feel perhaps I have very few people who sympathise with my position, and consequently I feel a little diffident; but, as my duty to my people requires, I have to put my case with as much strength as I can command. From the beginning—if I may come to the conclusion and then try to explain it—I may say we are not satisfied at all with the Government of India Report on this point. In the former Reforms—I am taking only Hindu, Muslim and Sikh seats, and am excluding European, Anglo-Indian and Christian seats—Hindus were 32·85 per cent. in the House; Muhammadans were 48·5 per cent., and Sikhs were 18·55 per cent. The whole number of the House, I mean excluding Christians and Europeans, was 70, and they counted Hindus 23, Muhammadans 34, and Sikhs 13. According to the Government of India Report, Muhammadans—I am again excluding Europeans, Christians and Labour, which is defined as " indeterminate " (though both of my friends who have former experience of the Council say that it is a Muhammadan seat in fact; but here it is said " indeterminate "), so being indeterminate, like Christian and European seats, I excluded that; I am giving you the percentage as it will be between the three communities in the Punjab—Muhammadans will be 50·7 per cent., Hindus, 30·7 per cent., and Sikhs, 18·6 per cent.; and the position would be like this, that according to the Montford Reforms Muslim percentage was 48·57 per cent.; and in the present it would be 50·7, naturally in the same proportion, Hindu and Sikhs seats combined would decrease by 2 per cent. If I included the Labour seat as a Muhammadan seat, then naturally 1 per cent. will be the increase of the Muhammadans, and the Sikh and Hindu percentage would decrease also proportionately to that. So, as a matter of fact, that is putting us in a position which is worse than the position in which we were. The question will arise that if we were satisfied with the former arrangement, this little difference perhaps might not mean much, and consequently, our hue and cry, if I may call it so, is perhaps unnecessary and unwarranted. But first of all I would submit that we were not satisfied under the previous arrangement, *i.e.*, under the Montford Reforms. I am sorry to say, Sir, that I have to remind you that on account of the dissatisfaction caused by that document, how much sacrifice we have made, so far, and I would also remind you, Sir, how much trouble we have given to you—the Government, I mean, and the British people. I do not say that it has been much, because you are a very big nation, and with your large resources, it perhaps did not so much matter to you; but I would submit that this sacrifice which we have made on account of this dissatisfaction caused by the Montford Reforms has made us

very weak to-day. Economically and physically we are much lower than we were some years back.

Sardar Ujjal Singh: Why physically?

Sardar Sampuran Singh: Yes, physically our strength is weaker to-day.

Sardar Ujjal Singh: Why?

Lord Peel: No.

Sardar Sampuran Singh: So what I mean to submit is that we have been protesting against it so far, and all this time we have been humoured about it. We have been told that the time for revision would come, and that then we should get our chance. It was too late when you reminded us; it was too late when you came forward in the field. Again, Sir, I have to remind you, fortunately or unfortunately, we, as a community before the Montford Reforms were quiet in politics. Our patriotic people in India blamed us for not joining with them; and when the time of the Montford Report came we were told by responsible Government officials that as we did not join the Lucknow Pact we have now to suffer for that and they could not alter that arrangement; if we wanted anything more we were advised to go to the Congress people.

We suffered, Sir, perhaps on account of foolishness, some call it loyalty, some call it foolishness, and I would not try to tell here what it was really; but it is a fact that because we kept aloof, and did not take much part in politics, we were not consulted, and the Montford Report and the Reforms consequently based on it were thrust upon us without consulting us, and without hearing us—*ex parte* so far as Sikhs were concerned, and ever since we have been crying about it, and we have always been told that the time will come when we shall be heard; and now the time for hearing has come, Sir John Simon very kindly remarks that special notice of us should be taken; he even mentions our services; I am not going to repeat them here; he even puts in a few kind words, but when he comes to the conclusion he leaves us in *status quo*, and does not give us anything substantial; and now, when we find this Report coming from the Government of India, we find that this puts us in a still worse position. It almost looks for me out of place to mention the cables and letters we receive in such abundance from India about the Government of India Despatch—but we are strong with the strength of our people in India, and we are weak with their weakness—and I must tell you how they feel about it. I assure you we never desired their cables, we never asked for them, we have so far not communicated with our people in India on any of the important questions which we are discussing here, neither through the Press nor through personal letters. We have been more or less perfectly silent on this question, but in spite of that, and without our asking for them, every day we are getting letters from important persons like Sir Sardar Bahadur Sunder Singh Majithia, President of the Sikh Liberal Association and President of the Chief Kalsa Diwan, Sardar Mohan Singh and Sardar Raghbir

Singh Raja of Gansi and others, including members of the Punjab Legislative Council, and cables from all the seven organisations, and they all disagree with the Government of India Despatch and show resentment against it. I do not say it as a threat, because I know we are nowhere, we are a small number, a small community; we must admit our weakness. Politically, we are opposing Muhammadans, who, numerically speaking, are much stronger than us, and possibly what agitation we can make against the Muhammadans, and what agitation we can make against the British Empire, and what can we do if things are not done according to our wishes? I am afraid of this—I am not threatening anybody, but I know that unless our people at home are satisfied and are shown that justice has been done to them, I feel that there will be great excitement, and perhaps with a Muhammadan Government in the Punjab which it shall be—if they get the statutory permanent majority in the Council and the great resources of the mighty British Empire at their back, there might be a civil war, and we might be altogether annihilated and washed off the face of the world. I can even envisage that, but there would be some satisfaction to me, even if things come to that, that I had the say, and I put my case, anyhow, before you, and told you the real position.

Now, Sir, I come to this point, the reason why Sikhs want more representation. Are their demands really unreasonable? Our position is like this, that we are only little more than 11 per cent. of the population, but by the labour of centuries and by investing capital in the Province we have acquired economic interests in the Province so that our voting strength, based on a property basis, has gone up to 24 per cent., and—I would not be exactly sure, but I gather, from the little material I have with me—we pay into the Provincial revenue about 40 per cent.

Sardar Ujjal Singh: 25 per cent.

Sardar Sampuran Singh: 25 per cent. of the Land Revenue, and 15 per cent. of all charges, including our Canal charges. So it is difficult, however small a community we may be, to hand over all this money and have that stake in the country and hand over the country to the people and constitute a form of government in which we have no voice.

We have been discussing in the Provincial Sub-Committee, and perhaps this idea must be in the minds of several people here, that when we are being given about 24 members in the Provincial Council, and with our economic resources and with our strength it would be very difficult that the Muhammadan Government in the Punjab would not care for our voice. Sir, perhaps I am not in any way misusing the word " Muhammadan " when I am saying a Muhammadan Government; I am not exaggerating at all, because, after all, you call it a Labour Government here when it is a Labour majority in the House, you call it a Liberal Government when it is a Liberal majority in the House, and you are basing, according to this Report, a Government in the Punjab giving 51 per cent. or 52 per cent. to Muhammadans—naturally I cannot call it anything

else but a Muhammadan Government—well, about 49·2 per cent. in the whole House—and you have no doubt made a provision that there will be a Sikh Minister, and there will be a Hindu Minister also, but only such men will be able to get on who would subordinate their will to the Muhammadan majority. So I will call it a Muhammadan Government, because with their majority in the House and Cabinet and with separate electorates always keeping their Muhammadan constituency in their minds, it cannot be anything else. Of course, they have to take Hindu and Sikh Ministers, which means, naturally, when they agree to join the Government they go into that bloc, with one or two friends, with that much margin, they will always be in the majority. It is not like England, where the parties are shuffling; to-day a man is Liberal and to-morrow he may become Conservative, or a day after he may become Labour. In India, once a Muhammadan always a Muhammadan; he has to remain with the party, when government is based on religious grounds; he has to remain there, as long as the government lasts, with that party, and that party constitutes a Muhammadan Government. That means a permanent majority in the House of the Muhammadan Government, and there Sikhs and Hindus possibly cannot have any voice whatsoever, and that will be a Government by one community. It is just this one principle which I attack. Let there be a majority of Muhammadans in the House; I do not care. Let there be a majority of any community in any Province in India or in the Central Government; I do not care. But this is the principle which we cannot agree to, that just according to statute a community should have in the Government a majority which shall be always governing, always based on religious grounds. It is wrong to say that we have risen above bigotry. The fact is there. In everyday life we find that that feeling is there. I need not go into details on that troublesome point, but there it is. Admitting that fact, it will be very hard and very difficult if by statute you give, especially when there are three communities in the Punjab, the effective political control to one community. I never say that there should not be a majority of any single community, but not to care for the other two communities, and give this one single community a majority in any House, a statutory majority is, I think against all principles of constitutional law.

Mr. Fazl-ul-Huq: Will my friend make one point clear? Does he prefer British rule in the Punjab to the alternative prospect of a Muhammadan rule? Which of the two rules does he prefer?

Chairman: There are a lot of side paths out of the main road that I want you to walk upon, and until we have got to the end of the main road I think we will just blind our eyes to the side paths. Is there anyone representing the Depressed Classes? I was looking round about. Dr. Ambedkar, I think, is not here.

Rao Bahadur Srinivasan: If you want me to speak, Sir, I will speak on behalf of the Depressed Classes.

Chairman: Yes, please.

Rao Bahadur Srinivasan: Mr. Prime Minister, the removal of "untouchability" depends upon the vesting of political power in the Depressed Classes. With my 40 years' experience of working among them I find that there is no alternative but that we should be possessed of political power. The Depressed Classes have been loyal to the Government. Last night's mail brought me a letter from the military men of Bangalore, giving me a long list of wars in which they were, and they say that their regiments have been disbanded, and the British have not paid anything to them, and they wanted us to represent this matter to the British delegates.

Chairman: The important point was, I take it, that they got no pay?

Rao Bahadur Srinivasan: They had pay, but they had fought for the country.

On the other hand the Depressed Classes, as tillers of the soil, have been subservient to their employers and to the landlords; but these latter have introduced untouchability and have not helped them at all, and whenever they have tried to make progress, obstacles have been put in their way. My experience is that in the last 10 years several memorials have been submitted to the Government, at any rate so far as Madras is concerned, and the Government have issued orders, and Acts have been passed, but they were all reduced to dead letters.

You are all well aware of the treatment we undergo at the hands of the caste people. The only alternative is to have power in the Legislature, so that we may fight our own cause. Our object is to have adult suffrage, and to have separate electorates only as a temporary measure. We want reservation of seats on a population basis, with sufficient weightage to enable us to withstand the majority in the Council. As a further safeguard, we want power to appeal to the Governor or to the Governor-General or to the Secretary of State in the case of any Acts or laws being passed which are prejudicial to us.

I do not want to dwell on all these points, because as we go on we shall be able to deal with them in detail. I hope the hostility which is shown to us by the caste Hindus in India will not be shown by the caste Hindu delegates here in this sub-Committee.

Mr. Foot: I should like, if I may, to put a question to Mr. Srinivasan about a matter which is troubling some of us. It is this. The Depressed Classes, through their organisation and in the representations which they made to the Statutory Commission, almost without exception asked for a separate electorate.

Rao Bahadur Srinivasan: Yes.

Mr. Foot: In the last meeting which was held, I think, in November of this year in one of the northern cities of India, they again put the primary stress upon the separate electorate.

Rao Bahadur Srinivasan: Yes.

Mr. Foot: And the question of adult suffrage was raised if that concession was not made. Can Mr. Srinivasan tell us, speaking on behalf of the Depressed Classes, if that still remains the primary claim—the claim for separate electorates?

Rao Bahadur Srinivasan: As representatives of the Depressed Classes here, since we came here there has been a change, and we have now to ask for adult suffrage, and we only ask for a separate electorate as a temporary measure.

Mr. Foot: To elucidate that point, I should like to ask a further question. I understand that at the All-India meeting held in November of this year emphasis was placed on the responsibility resting on the two representatives, Dr. Ambedkar and Rao Bahadur Srinivasan, but they still at that time put their stress, their primary stress, on the separate electorate. Do I understand the instructions have been varied since the date of that meeting.

Rao Bahadur Srinivasan: Yes.

H.H. The Aga Khan: I do not think he understands.

Chairman: As I understand it, what has been said is this, that, so far as the meeting held in November is concerned, the statement made by Mr. Foot is correct. but that since that time the delegates who have come here to attend this Conference have decided to vary the decision arrived at at that meeting, and the variation consists of this, that they are now asking first of all for adult suffrage, but with either reserved seats or special constituencies as a temporary measure. I understand, however, that the authority for the variation is the delegates attending this Conference.

Mr. Foot: I am not joining in the discussion, Mr. Prime Minister; I am only trying to get this point cleared up, because some of us are very concerned about the interests of this large body of people representing—though the figures cannot be definitely ascertained—somewhere between forty and sixty millions of our fellow-subjects in India, who have just as good a claim on our consideration as any other of our fellow-subjects througnout the British Empire.

We should like some machinery to be set up, if possible, for a close inquiry into the claims made by these people. They do emphasise the fact that although the other interests are represented round this table, there are only two representatives for the great mass of people who form the Depresed Classes, and they speak of the very heavy responsibility resting on Mr. Srinivasan and Dr. Ambedkar, a responsibility of which I am sure they themselves are very conscious. I should like some inquiry to be made upon that. I am quite prepared, of course, always to accept what Mr. Srinivasan has to say, but I should like to know to what extent we must rely on their deliberate representations, made over a long period, and on what I now understand to be the altered instructions of their delegates here. When the Statutory Commission went to different parts of India they had the advantage, almost in every

Province, of having long memoranda, presumably very carefully prepared and put up on behalf of the Depressed Classes, and then the spokesmen for the Depressed Classes were submitted to a very long examination and cross-examination. We have had sent to us, moreover—it reached me only a day or two ago—this last, statement, representing the considered opinion of those who had gathered together to speak for the Depressed Classes, and we have also had the statement of Mr. Rajah, which is contained in the very valuable addendum which we have to the Report of the Central Committee. Mr. Rajah there makes his chief claim the claim for a separate electorate.

I think you will agree, Mr. Prime Minister, that, being anxious to go into the case of these people and to meet it as far as we can, we should like to be assured that we do understand their own claim, their own request. If adult suffrage is found to be impossible, as obviously it will be if we take the view of the majority—I think Mr. Shiva Rao admitted this morning the majority were against it—we want to know how to meet the claim, on which they have laid continual stress, for a separate electorate. Without that safeguard, they have said their interest cannot be secured, and I hope we shall be able to go into this matter very thoroughly.

I am only anxious that the Minorities sub-Committee shall not have all its time taken up by the consuming problem of the Hindu-Mussalman difficulty, but that we shall be able to give adequate time to meeting the needs of these people, who have a very considerable claim on such time, attention and thought as we can give.

Chairman: We have heard something of the Labour case, and I should like to hear Mr. Paul.

Mr. K. T. Paul: I thought I would be called on on the next occasion, but as I do not know whether there will be an opportunity for a general discussion next time I had better make my remarks now. The position of the Indian Christian community is somewhat difficult and embarrassing. As a matter of fact, we are unequally distributed among the Provinces. Two-thirds of our community are found in Southern India, and in the other Provinces we are found in different proportions. In the matter of education and training, however, we have done our best to prepare ourselves, so that at the present time we occupy a position of advantage among the various communities in the matter of public employment, participation in educational work and public utility services of various sorts. It is to the direct interest of our community that we should go on in this way, making ourselves as useful as possible to all the communities all the time. That is our first objective.

In the second place, seeing that we have to live in the midst of very strong communities, it is undoubtedly the case that time after time we find ourselves forgotten. It is not that we are ill-treated or oppressed; there has never been any complaint of that sort; but very often we have been forgotten by Government,

because, as it were, we do not count. We have been forgotten again and again by whichever community or section of a community happens to have power in its hands in a particular Province at a particular time.

Our position, therefore, is very difficult. On principle we should like to see no special privileges accorded to ourselves or to any community. We stand for absolute democracy, where merit and personal considerations are the only things that qualify a person in the matter of political privileges or opportunities of public office. At the same time, if special consideration is to be shown to any community whatever in India we do realise that we shall immediately be placed in a position of increased disadvantage. We live in such a situation now, under the Montford Reforms; in fact, from the time when the Morley-Minto Reforms were introduced we have found ourselves in an extremely difficult position, because every now and then we are liable to be squeezed out in the sharing of the various positions and opportunities among the more powerful communities.

Therefore, on pure grounds of self-preservation, if I may say so, we are compelled to ask that we also should be remembered if and when seats are earmarked in the Legislative Councils and elsewhere, and when posts in public offices are dealt with.

With regard to this matter, I think my community all over India are unanimous that if any community is given special privileges, we also should have a share in such privileges. It may be on the population basis or according to the voting register, whichever is the more advantageous to us; I am not ashamed to say that.

Then there is the vexed question of separate electorates. As I have already indicated, since we stand for peace and concord, and since we are most anxious to secure the coalescing of all communities in national solidarity, we are in principle opposed to separate electorates.

Rao Bahadur Pannir Selvam: Not all of us; we are not.

Mr. Paul: I am speaking on behalf of the All-India Christian Conference, which I am specially commissioned to represent; but as a matter of practical arrangement it may be necessary to have separate electorates in some Provinces, and perhaps in all Provinces. That is a subsidiary consideration. On behalf of that section of our community which I have the honour to represent, I do certainly say it is our definite view that on principle we are opposed to separate electorates, and if, on practical grounds, separate electorates are given to us or to anybody else, it is our definite recommendation that that should be done only as a temporary expedient with a time limit, so that after a specified number of years the whole matter shall come up for reconsideration by the Indian Legislature, or whatever body is constitutionally empowered to revise such an arrangement. We do hope that this expedient may be a temporary one and not perpetual, and we look

forward most definitely and anxiously to the time when such special arrangements will disappear.

There are two or three other points I wish very briefly to mention. We are very anxious, and I know Dr. Ambedkar is very anxious, that there should be a declaration of fundamental rights as regards all citizens in the matter of religion, in the matter of philanthropic institutions and in the matter of the allocation of public funds towards assisting any philanthropic institutions, irrespective of religion, creed or colour. We are very anxious there should be in the Statute some declaration of fundamental rights, as in the case of those constitutions which have been framed subsequent to the war. There is a very valuable memorandum in the Appendix to the third volume of the Report of the Simon Commission, for which I think we are indebted to Dr. Shafa'at Ahmad Khan. That would be a good basis for working out such a statement.

In the second place, we want some machinery to see that these fundamental rights are respected and are not forgotten. In this matter I think I reflect Dr. Ambedkar's views correctly when I say that we should want a portfolio for the Depressed Classes and Minorities in the Ministries of the Provincial and Federal Governments. We do not want a whole Ministry for the Depressed Classes and Minorities, but a portfolio which would be attached to one Minister or another. We would expect that the Minister concerned would act as a sort of godfather for the Minorities and Depressed Classes in the Cabinet, interceding on their behalf with whatever Department happened to be concerned with the affairs of the Depressed Classes or the Minorities at any particular juncture. It might be the Education Department; it might be the Department of Public Health or the Public Works Department, or others. This Minister would also act as a sort of co-ordinating agency. Perhaps you may find an analogy for that in the Commissioner for Native Affairs provided for in South Africa, with special reference to the Zulus and other African tribes.

We would also desiderate a special provision for invoking the assistance of the Supreme Court, if there is to be a Supreme Court, in regard to any legislation which in the opinion of the representatives of the Minorities and Depressed Classes may discriminate adversely against those whom they represent. On this point we are prepared to present a memorandum at the proper time for the consideration of the sub-Committee.

(The sub-Committee adjourned at 12-45 p.m.)

PROCEEDINGS OF THE SECOND MEETING OF SUB-COMMITTEE No. III. (MINORITIES) HELD DECEMBER 31ST, 1930, AT 11 A.M.

Chairman: We will begin our discussion where it was left off at our last meeting. What I would like in this discussion is that when an interest has been expounded and explained, the ground

should not be gone over unnecessarily again, but that we should spend our time in hearing the various points of view as much as possible.

Rao Bahadur Pannir Selvam: If, notwithstanding the statement made by my colleague Mr. Paul, I rise, it is because of the fear that what he has said might give a very inaccurate impression of the attitude of the community as a whole with reference to the sort of protection which it, as a minority, seeks, and the method by which it would like to secure it.

Mr. Paul spoke, as he said, on behalf of the All-India Christian Conference. The name "All-India Christian Conference" is, I am afraid, apt to be slightly misleading as regard its representative character of the community as a whole. I claim to speak on behalf of that section of the community which is not represented by the All-India Christian Conference, and which I claim represents a considerable majority—well nigh 80 per cent.—of the community. For one thing, the Catholics who constitute by far the major portion of the Indian Christian community, the majority being nearly a million over all the other denominations of Indian Christians put together, have at no time had anything to do with the All-India Christian Conference. In fact in all its history not more than half a dozen Catholics have ever been present at its meetings. That excludes considerably more than half of the Indian Christian population. Again, as far as this particular question with which we are now concerned goes, namely, the sort of protection which this minority community claims, I submit that the Madras Christian Association, which represents the Protestants of the Madras Presidency, who again constitute the major portion of the Protestants throughout India, is not able to see eye to eye with the All-India Christian Conference.

With this preface, and claiming to speak on behalf of the Catholics and the major portion of the Protestants of Madras, represented through the Madras Christian Association, I may say that I am perfectly at one with Mr. Paul as far as the claim about the fundamental rights of the minorities and their incorporation in the Constitution is concerned.

In considering as to how best those rights are to be enforced and safeguarded in the future constitution, my friend Mr. Paul has suggested that one member of the Executive Council should be entrusted with a portfolio called the Minorities or Depressed Classes Portfolio. I have nothing to say against that, but I am afraid it will be absolutely ineffective if, both in the Central and Local Councils, we do not have our own special representatives to see to it that those who are entrusted with this Portfolio actually carry out their duties properly. Effective representation for the community can, I believe, be secured only through a separate electorate. In putting forward this claim for a separate electorate, I feel I need be neither apologetic nor hesitant. I need not even say that I put forward the claim because the other minorities, for instance

the Muslims, demand it. I claim it on its own merits, and because I feel that the interests of my community can be protected only in that manner.

I have been told time and again of the denationalising and the disintegrating influences of a separate electorate, but I must confess that I am still unconvinced about the denationalising and the disintegrating influences of a separate electorate as things are in my country. I admit that the ideal is one electorate for the whole people, but it is no good trying to get the ideal if you have not got an ideal state of things.

It must be admitted that in India we act, and live and breathe in terms of castes and religion. Even within recent memory occasions have not been wanting when, in elections, an appeal has been made to the religious and caste prejudices of the voters—and not by any irresponsible individual here or by any insignificant man there. Within the last few years the most responsible nationalists, even a President of the National Congress, when it came to a question of fighting an election against a Christian, appeals have been made on his behalf to vote for him because the other candidate was a Christian.

With such examples before us, I am afraid it is no good appealing to the minorities in terms of nationalism, and telling them that a separate electorate will be a denationalising and disintegrating influence. If we are to have any place at all in the Legislative Councils, if the minorities are to be represented there at all, it cannot be through the open door. Therefore the choice lies between representation through a joint electorate with reserved seats or through a separate electorate.

Coming to the joint electorate, it is no good placing ourselves on the analogy of other minorities, and saying that if the Muhammadans or the other minorities are prepared to give it up, we will also give it up. The position of the Christians in the Indian Nation is not the same as that of the Muhammadans or of the Sikhs. The Muhammadans constitute a minority, but a very powerful minority. It is a minority which can take care of itself. With reference to the Sikhs, it is true that in numbers they are slightly less than we, but they are concentrated in one Province, and in portions of the Punjab they are so numerous that they can certainly influence any election; while we, though slightly more numerous than the Sikhs, are spread throughout the length and breadth of the land, and in no place are we numerous enough to make ourselves felt.

I have had occasion recently to study some of the voters' lists or electoral rolls of our constituencies, and I can state authoritatively that even in places where we are in the largest number, we hardly constitute 6 per cent. of the total electorate. In the Madras Provinces where we have the largest number of Christians, the Southern portions have a large proportion of Christians than the other parts, as will be evidenced by the fact that our constituencies

here are confined to two or three districts, unlike in other parts where they extend over six or seven districts. The constituency which I represent is supposed to be one of the most populous from the point of view of Christians. And even in that constituency if you select that corner where the Christians are most concentrated you will find that the Christian voters come to only 600, while the general constituencies for the same area have about 10,000 voters. In a joint electorate even with reservation what would be the effect of 600 Christian votes in a constituency in which there are in all 10,600 votes? Would it not really be a case of a Christian being nominated by the majority community to represent the minority, and if we are agreed that nomination by the Government is baneful and might have to be given up, would not the case be much worse when the representative of a community is in effect to be nominated by another and that a major community? The man who is then selected to represent the Christian could not by any manner of means be called a representative of the Christian community. He will be a representative of the Hindu community, and when it comes to any clash of interests he would naturally try to satisfy the 10,000 rather than the 600.

It was said that we do not fear any persecution. I do not fear it, either at the hands of the majority communities as a whole, but even now instances are not wanting where we have been subjected not to direct persecution, and where our institutions, particularly our educational institutions, have been prejudicially treated, have been denied their due share of protection and grants, especially by those people who talk most about nationalism. In my own Province we have had a peculiar advantage, in that the one party which it condemned as a communal party—the Justice Party—has tried to mete out even handed justice to all communities, but I am referring to people who talk most of nationalism. It is under those people that I am afraid our institutions have been made to suffer.

Therefore I feel that in endorsing the claim put forward by Mr. Paul for a separate electorate, there is no occasion for being apologetic or hesitant, or even to make it conditional on the other communities claiming that right. Our position is absolutely different from that of the Muhammadans and the Sikhs. We are a small community spread all over the country, and we form a very insignificant part in all parts of the country. Therefore we need special protection, and the only means by which that can be afforded is by separate electorates.

In putting this forward I claim to represent the majority of the community. That is borne out by the Government of India Despatch, which says that the Madras Christians, who constitute the major portion of the Christian community in India, are not in favour of giving up the separate electorate which they now enjoy.

Sir Phiroze Sethna: I claim leave, as a representative of the smallest minority community in India, namely, the Parsees, to

make a few observations. Out of the total population in British India, including Burma, of 246½ millions, there are 110 million members of important minority communities. Numerically the most important are the Muhammadans who number 59 millions. The Depressed Classes number 44 millions. The Indian Christians in British India number 2¾ millions. The Sikhs number 2½ millions, whilst there are 151,000 Europeans, including British troops; about 95,000 Anglo-Indians, and only 88,000 Parsees. The main fact brought out by these figures is that of the 110 millions belonging to the minority communities in India, some 103 millions belong to two communities.

The question of minorities is not confined to India alone. It also extends to countries in Europe, and particularly after the Great War much attention has been devoted to protecting their interests. The League of Nations has taken a great interest in it, and its attitude might well be considered by this Conference. I will only quote a few sentences from two speakers who supported the motion for the protection of minorities, which are of interest to us at the present time. The first of them is by Monsieur De Mello Franco, who observed as follows:—

> "It seems to me obvious that those who conceived this system of protection did not dream of creating within certain States a group of inhabitants who would regard themselves as permanently foreign to the general organisation of the country. On the contrary, they wished the elements of the population contained in such a group to enjoy a status of legal protection which might ensure respect for the inviolability of the person under all its aspects, and which might gradually prepare the way for conditions necessary for the establishment of complete national unity . . . . We must avoid creating a State within a State. We must prevent the minority from transforming itself into a privileged caste and taking definite form as a foreign group instead of becoming fused in the society in which it lives. If we take the exaggerated conception of the autonomy of minorities to the last extreme, these minorities will become disruptive elements in the State and a source of national disorganisation."

Sir Austin Chamberlain followed, observing

> "It was certainly not the intention of those who had devised this system to establish in the midst of nations a community which would remain permanently estranged from the national life."

In considering the claims advanced by minorities in India, therefore, it is very desirable that we bear in mind the advice given by these two speakers whom I have quoted.

Sir, it is true that we have separate electorates at the moment, and that only for one minority community, namely, the Muhammadans.

A Member: And the Sikhs and Christians also.

Sir Phiroze Sethna: Then I will say for some minorities. But it is a well known fact that when separate electorates were first agreed to, it was hoped and believed that that arrangement would not be a permanent one, but that by degrees the separate electorates would be removed and that there would be one joint electorate. That certainly ought to be our aim. Unfortunately we find from the telegrams published both yesterday and to-day in the London papers of the proceedings in India of the All-India Muslim League, that they insist upon separate electorates. Likewise one of the two Indian Christian representatives has this morning urged the claim of separate electorates for his community.

Now that the constitutional problem is again on the anvil there can be no better opportunity than the present to consider the question of having joint electorates and not separate electorates. Communal electorates are certainly vicious and unsound, especially when they take the form of special electorates. The Government of India in their Despatch did not say that separate electorates for Muhammadans should be abolished, but they certainly do say that machinery should be provided in the new Act whereby they may subsequently be removed. That, Sir, should be the policy which we should follow, and the sooner the better.

Separate electorates are against the growth of a national spirit. That is recognised by all. (Cries of "No"). My statement is questioned, but I should like my friends not to restrict their opinion on this subject on their immediate knowledge, but to view the question from an international point of view and to see how these matters are dealt with elsewhere as well.

Now, the charge is often brought against us Indians that we are not a homogeneous population as a nation for political purposes, and I contend that joint electorates would gradually lead to our becoming homogeneous, no matter how much we may differ by religion or otherwise. For that reason joint electorates are, to my mind, a necessity for the growth and advancement of the country. If it is necessary for seats to be reserved for different communities in the joint electorate I for one would have no objection to that; but separate electorates ought certainly to be abandoned from now onwards.

There has of late been a growth of the national spirit, as we all recognise and as has been evidenced at this Conference by the united demand which is made for Dominion Status with safeguards, and such unity would go still further if we had joint electorates.

If to-day there is a national spirit in the country, we owe it in a very large measure to the British themselves. There was a time when because there was no *lingua franca* in the country, except perhaps Urdu—but Urdu is known and talked only in the upper half of India, and it is not known at all in the lower half of India —when a man in the South could not make himself understood by a man in the North, and the same might be said of the people in

the East and the West of India. All that has now been changed, thanks to the spread of English education throughout the length and breadth of the country. In that way I say the British are responsible, to an extent, for the growth of a national spirit in our land through the medium of the English language.

With regard to the Parsees, I mentioned that their population in British India is 88,000. Their total population in the whole of India, including the Indian States, is 102,500. Out of the 88,000 in British India, more than 50,000 are in Bombay City, and there are several thousands more in other towns in the Bombay Presidency, so that the bulk of our population is in Bombay and the Bombay Presidency. I may claim with pardonable pride that we have held our own in the matter of civic duties, elections to the Council and to the Municipality, and in so many different spheres of activities. If we have done so it may be because we have taken more kindly to Western ideas and Western thoughts, as a result of which we were perhaps the earliest to advance in the matter of education, so that to-day we can claim that the percentage of literates in our community is cent. per cent. When I say that our community has adapted itself to Western ideas more than other communities, I do not want it to be understood for one moment that we do not sympathise with our Indian brethren. We most certainly do, for we regard ourselves as Indians. We have been in the country for more than 13 centuries; in fact, we have been there longer than those Englishmen, who are the descendants of those who accompanied William the Conqueror to these Isles, have been here. Consequently, we share with our Indian friends their aspirations, and we too demand Dominion Status with safeguards; but the right way to proceed about it is by the method of joint electorates.

As I have said, we have held our own; and I should like to quote a few figures to show our position. Take the case of the Bombay Municipality, which has 106 members. Though our population in the city of Bombay amounts to only 5 per cent. of the total, we are able to capture in open contest more than 25 seats in the joint electorate. In the case of the Bombay Legislative Council, until two years ago there were 112 members, but that number has been increased by two in the last two years. It is now 114, of whom there are 86 elected members. In the 86 there are six Parsees, all elected, which gives them a percentage of 7 per cent. of elected seats in the Council. I am afraid, however, our percentages are now falling, and they are falling because of the system of separate electorates and also because of the spirit of communal feeling which is unfortunately on the increase. That feeling is on the increase, beyond all doubt, and unfortunately Government themselves seem to encourage it. I can quote instances where a post has been filled not on the score of merit, but, if there are candidates of equal merit, one belonging to another minority, Muhammadan or Depressed Class, has been selected, and the Parsee has been told that because he happens to belong to the

Parsee community his community will be better able to take care of him. That is not a sound argument, may I contend it is unfair; but in spite of it all I do not say that we as Parsees should have any special concessions.

I for one think, and there are many in my community who agree with me, that we shall continue to hold our own if there are joint electorates. If, however, even in the joint electorates there is reservation of seats for some other communities, then I know there is a section—and a growing section—of Parsees which thinks that the interests of the community should neither be ignored nor neglected, and that they too might be given reservation of seats in the Council.

This sub-Committee is dealing not only with minorities but also with special interests. Labour has already had its say; Labour requires representation. I trust Capital will not be forgotten, and Capital is a broad term which includes commerce, industries, mining and various other interests. I hope that if there is reservation of seats these separate special interests will also not be ignored nor forgotten.

Lieut.-Colonel Gidney: Sir, as the decisions of this sub-Committee are of very vital interest to my community, and as I have no desire to stray from the notes which I have jotted down, I trust you will forgive me if I read what I have to say.

Whatever may be the future of India, the Anglo-Indian community is, for better or for worse, an indissoluble part of that future. We are the sons of the soil who not only have our roots in the country's past but live, work and die there in the pursuit of our avocations. The welfare of India is our welfare and our welfare is part of the welfare of the whole country. We accept the implications of our Indian nationality and we look forward to a glorious future for our Mother country. As spokesman of the Anglo-Indian community (in which expression is included European British subjects domiciled in the country), I must however make it quite clear that in our politics there is one fixed star from which no considerations of communal or personal advancement or benefits will ever make us deviate, and that is our inexpurgable loyalty to the Crown of England. And in saying this I am not employing mere words, for the history of my community from its very beginning is proof of my assertion. We have never hesitated to seal our loyalty with our blood. There is not a page of British Indian history on which our names do not appear and in the Great War we gave 80 per cent. of our manhood to serve with the colours, and I might mention that Robinson and Warneford, the Zeppelin V.C.'s of the Great War, were members of my community. And they are only exemplars of innumerable humble unknown fighters who gave their lives willingly, even joyously, in a cause which they conceived to be the cause of their Motherland—India—and of their Fatherland—England—which many of them had never seen. The many Rolls of Honour in our Public Schools are living testimony of our service and sacrifice for the Empire.

I shall not dwell longer on this theme, for I am not here to ask for payment for services rendered. I will not attempt to drive any bargain with you because after centuries of loyal and absolutely selfless devotion to England's and India's cause, I cannot pretend that my community and I are going to turn against you in distress and make of your trouble an occasion for our advantage. We have never done it and we never shall do it. In this there is nothing denoting meanness of spirit, because all our actions are impelled by forces too deep and too fundamental for rational analysis.

But I would like you to realise that I am talking not as an Englishman but as an Indian and I want my Indian brothers to try for a moment to put themselves in my place. By law, by residence, by environment and circumstances, I am an Indian. But by blood also I belong to Britain. For me, therefore, there is no antagonism between India and Britain. They are both my countries. I am unable to see any difference between the welfare of the one and the welfare of the other. Unfortunately, of late years speakers in India have not hesitated to draw a distinction between Indian Indians and Anglo-Indians, as though there were some fundamental clash between the interests of India and Britain. But I would ask you to think over the sayings of some of the finest spirits who have graced the history of Indian India during the last century and a half, that is, since the British dominion in India began. They include the great names of Ram Mohan Roy, Keshab Chunder Sen, Sir Saiyid Ahmed, Mr. Gokhale, and, a name that will appeal to every Indian here, the late Mr. C. R. Das. These and innumerable other great Indians had in their hearts an ideal England which they loved and to which they gave their whole-hearted devotion. Let me quote from the last public speech which Mr. C. R. Das ever delivered—his now famous speech at Faridpur, on May 2nd, 1925:—

> "It is realised that under modern conditions no nation can live in isolation, and Dominion Status, while it affords complete protection to each constituent composing the great Commonwealth of Nations called the British Empire, secures to each the right to realise itself, develop itself and fulfil itself, and therefore it expresses and implies all the elements of Swaraj which I have mentioned. To me the idea is specially attractive because of its deep spiritual significance."

My Indian brothers, you know that that is the England which holds your loyalty and, therefore, you must not blame us, in whose veins the blood of this people runs, for holding steadfastly to the country which holds your devotion, you who are children by adoption and not by nature as we are. I have dwelt at some length on this point because our attitude has been so often misunderstood in India and in England. We hold to the British connection because there is that in us which will allow us to do no other. Through fair weather and foul, we have stood by England and we shall continue to do so.

And now, what is our claim on India? It has been said, and with obvious truth, that the India of to-day is very largely a creature of modern communications. Whatever India may be racially or politically, there can be no doubt whatever that economically she is a unity, and that unity is the result of the growth of the net-work of communications of all sorts which traverse her surface in every direction. And it is a matter of history that it was the Anglo-Indian community which constructed and worked those communications when it alone of all Indian communities was equal to the task. We hear a good deal in these days about nation-building activities, but I would request my Indian colleagues to ask themselves seriously and without prejudice if we, the Anglo-Indians, have not been nation-builders in India in the true sense? We have built and worked India's communications. We have shed our blood in defence of India. We have been active and law-abiding citizens. Innumerable units of local self-government have benefited by the work of thousands of obscure Anglo-Indians and I doubt if anywhere else in the Empire there is a body of citizens so uniformly law-abiding as the Anglo-Indians of India. I ask you, therefore, in all earnestness if such a record as I have sketched—very inadequately and I fear all too incompetently—does not deserve recognition. Is it not worth India's while to preserve the integrity of such a body of citizens in her midst? We could be crushed out of existence easily enough. But in so crushing us, would not India lose something which it would be well worth her while to preserve? Let me repeat: the key-note of our nature is loyalty, and that loyalty is to India no less than to Britain. We are so small in numbers that the posts which we occupy in the public service form a merely infinitesimal percentage of the total number of posts available. India would gain nothing by expropriating us. On the contrary, she would lose what I think I am justified in describing as a most valuable element in the Indian polity. That is our claim on India.

What is our claim on England? Only the one claim and that is unquestioning devoted service and loyalty always and in all circumstances. We are not asking England for any favour or to do any injustice to any other Indian community, but we do ask that in the face of more insistent—perhaps I might say more powerful—claims, ours shall not be overlooked and our interests shall not be sacrificed where they ought to be and can be preserved, and that our apprehensions as to our future be assuaged.

Our problem is more an economic than a political one, and I am prepared to admit that its solution lies in the acceptance by us of the position of natives of India. Indeed, we are natives of India. But of what use is this to us when certain sections of our Indian brothers refuse to accept us as such? True, we have the protection of the Instrument of Instructions, but these powers have never been once exercised in the past decade during the operation of the Reforms, with the result that to-day, owing to the unfair application of Indianisation of the Services, and the political

pressure of more powerful communities, we find one-third of our people unemployed. A reference to the Indian Census of 1921 will show that about 600 of the 38,000 males of the community were unemployed at that time. To-day, as the supplementary memorandum submitted by us to the Indian Statutory Commission shows, it will be seen that, out of a total employable population of 43,000, there are 14,200 unemployed, or one-third of the community, and this notwithstanding the Instrument of Instructions to Governors in the 1919 Government of India Act which enjoins them to protect minorities, and paragraph 346 of the Montagu-Chelmsford Report in which our protection was placed as a special obligation on the Government. It was for this reason we asked the Indian Statutory Commission in our Memorandum for statutory economic and educational protection for 30 years. It was because those Instructions had not been observed that we sent a deputation in 1925 which waited on the Secretary of State for India. The reply received four years afterwards from the Government of India was a complete evasion of the issues we had raised, especially with reference to our anomalous status, which still remains the most serious handicap in our communal progress. Then came the Indian Statutory Commission to whom we submitted a Memorandum. In that document will be found details of our history, grievances and demands, and I would earnestly urge my colleagues on this Committee to peruse that statement, for without such knowledge you will not be able to understand and solve the Anglo-Indian problem. We now have before us the Report of that Commission.

In Vol. I there is a handsome tribute to the services rendered to India by the community and a generous admission of our acute economic difficulties and our apprehensions in regard to our future.

"For a long time the usefulness of Anglo-Indians in staffing administrative posts was widely recognised. The community has played an honourable part in developing the country and in supporting the forces of order. These avenues of employment are the more important to it since Anglo-Indians are not cultivators and few of them hold commanding positions in the world of commerce. It is, generally speaking, a poor community; the standards of life it endeavours to maintain make this poverty still more severely felt: it is domiciled in India, and must make India its home; and it now finds itself, largely as the result of the Reforms and the progress of Indianisation, exposed to the danger of falling between two stools."

But in Vol. II, I regret to note that the authors of the Report are not prepared to protect us statutorily and recommend that any protective provision should be embodied in the Instrument of Instructions, as per paragraph 15. The only solace we can find in this Report is to be found in Vol. II, paragraph 340, which says:—

> "We have one observation to make in regard to recruitment by the Central Government. In our first volume we have

described the peculiar position of the Anglo-Indian community and its economic difficulties. Its dependence upon employment under the Central Government is due not only to its aptitude and capacity but to the policy of Government in the past. We suggest, therefore, that some special consideration should be shown to the community in recruiting for the central services with which it has a traditional connection."

I now turn to the recent Despatch of the Government of India on the Indian Statutory Commission Report, and find the following passage:—

"The community is faced with very special problems of its own. Its main interests may be summed up as entry to the Services and educational facilities. So far as concerns the former, the field of employment which is of particular interest to the Anglo-Indians is to be found under the Central Government, especially in the railways and the Telegraph Department, and in a later passage we refer specifically to the possibility of giving such protection as may be practicable to their position on the railways. But their educational problems fall within the Provincial sphere, and we regard it as important that they should be enabled, particularly from this point of view, to make known their needs and their case."

The Government of India realising their insecure position has made a special reference to the position of the community on the railways, in paragraph 192:—

"The purposes in which Parliament must, we think, continue to be interested so far the railways are concerned fall under the heads of Defence, Finance, the Services, and the Anglo-Indian community . . . The Anglo-Indian community has in the past rendered very important services to the railways and still holds a large number of posts in particular branches of railway work. The economic life of the community is indeed to a large extent dependent on the opportunities of employment which the railways offer, and its members are gravely apprehensive of what may occur, if and when any change takes place in the present system of administration and control. In view of the history of the community, a special obligation, we think, rests upon Parliament, before relaxing its own control, to ensure, as far as may be practicable, that the interests of the Anglo-Indian community are protected."

Sir, I feel I must draw the particular attention of this Conference to the inspiring and assuring message given to the community by His Royal Highness the Prince of Wales when he last visited India:—

"Gentlemen, you may rest assured that I now understand the conditions under which you live in India, and the useful and honoured place which you fill as citizens in the Indian Empire. Your aims and aspirations have my sympathy. Your

devotion to the cause of India, the land in which you live, and your desire to maintain an honoured place for her within the Empire do you credit. I shall watch the progress of your community with the closest attention. You may be confident that Great Britain and the Empire will not forget your community, who are so united in their devotion to the King-Emperor and who gave such unmistakable tokens of their attachment to the Empire by their great sacrifices in the War."

A review of these extracts proves better than any words of mine could, not only the existence of a very acute and living communal problem and its great complexity, but also the inability of either the Secretary of State or the Government of India to evolve any protective measure. I gratefully admit that the Government of India has tried its utmost to realise its duties and to help the community in its own efforts to elevate and protect itself, but you will agree with me that in its recent Despatch it has practically admitted its inability to do so any further and now places such responsibility upon the British Parliament and recommends that the protection of our future must be a special obligation resting upon it.

Sir, our demands can be reduced to two main points:—(*a*) our employment in the Government Services, and (*b*) our education, and it is on these two essentials that I seek protection and safeguards. It is no use asking us to emigrate to other parts of the Empire for we come under the colour bar; nor is it a practical measure just now to advise us to enter into private enterprise for we are a small and poor community. Moreover, we cannot to-day be expected to sink our communal identity and manner of living to satisfy any political expediency. The community is asked to metamorphose itself if it is to secure recognition and a place in the future India. This cannot be done with a stroke of the pen or any sudden change in the constitution of India for that would completely wreck our economic condition. This change will take some time, and it is during this transitional period we ask for protection and safeguards. It must be obvious that if the community is to succeed in its struggle against stupendous odds it must have every facility for equipping itself educationally to meet the situation. The improvement of educational facilities is therefore our first requisite, but linked with this is the necessity for protecting the community from further displacement in the Services, for the education of the child is mainly dependent on the economic security of the parent. It will therefore be seen that these two requirements are inseparable. Let me take the first one. I have official statistics in my possession to show that during the past few decades the percentage of Anglo-Indians in the Bengal Government Offices has fallen from 90·5 to 18, in the Provincial Executive Service it has fallen from 32 to 4, and in the Judicial from 29 to *nil*. The same state of affairs will be found to-day in the Government of India and other Provincial Secretariats, as also

in the Postal Deparment where there is no room for any further Indianisation; while the demand of a University Degree has practically closed to us for some years to come (*i.e.*, till we are educationally prepared to compete) the doors of all Provincial and Superior Government Services. To-day we hold about 20,000 appointments in the total employment in Government Services of nearly two million. In the railways out of a total of 800,000 employees there only about 14,000 Anglo-Indians. Indeed, when all is said and done, the numbers involved are so infinitesimal as compared with the teeming millions of India that any protection that may be afforded, while it will be the salvation of our community, would hardly be felt by the Indian. It is the protection of just these few appointments which I am pleading for and which the Government of India has now called upon the British Parliament to effect. In this Conference, Sir, I am not appealing to Parliament alone—I stand here to-day as a representative of the community to plead its cause before a Conference representative of both India and England and in which all parties of the British Parliament are included, and I feel I can confidently ask you to see that a community that has rendered such service to the Empire will not be submerged in a future India. Equally with every other community I have a right to live and to demand that in any future Government the position of Anglo-Indians will be rendered secure and that we will not be deprived of the position we hold to-day in the various Services. The other minorities have made their demand for protection more or less in perpetuity. I do not ask for this. All I ask is that we be protected for a period of 30 years to enable us to equip ourselves. I also ask that the education grants of which we are in receipt to-day be not curtailed for a similar period and that an Educational Trust Fund be created.

The question is: how is this protection to be effected? I realise that the problem bristles with difficulties, but where there is a will there is a way. Various minorities have made their specific demands on this Committee. We are familiar with Mr. Jinnah's 14 points. We share the fears of our Muslim brothers and we offer them our whole-hearted support. We stand for communal or separate electorates, till such time as we feel we can dispense with such a safeguard. Being a labouring class, we have every sympathy with the demands made by the Labour Representative on this Committee, except as regards adult suffrage. With a similar exception, we also support the demands of the depressed classes and Indian Christians. Most of them have demanded a Declaration of Rights, which to my mind would be the ideal solution, and if it were possible to incorporate such a Declaration into the Statute, I would give it our entire support, and ask for such a Declaration for the Anglo-Indian community. I have no faith in any Instrument of Instructions to Governors, for during the past decade these have operated against the community. It is for this reason that I press for statutory protection of our economic and educational interests. In any case, so far as the Anglo-

Indian community is concerned, the new constitution should provide:—

(1) That the Anglo-Indian community (in which expression is included European British subjects domiciled in the country) be specifically classified as natives of India by statute, and as such enjoy all benefits;

(2) That the present interests of the community be not prejudicially affected by any change in the constitution of the Government of India;

(3) That there be adequate protection of our religion, language and personal laws;

(4) That there be no discriminatory legislation against minorities;

(5) That the community be given adequate representation in all Legislatures;

(6) That in the event of failure on the part of either a Provincial Government or the Central Government to comply with the provisions of a statutory enactment or rule or any Instrument of Instructions an appeal shall lie in the case of the former to the Central Government and to a higher tribunal, and in the case of the latter to a higher tribunal;

(7) That the minority communities (excluding the Muslims) be represented on all Ministries, Provincial and Central, by at least one Minister;

(8) That a Public Service Commission be appointed in every Province, and that at least two of its members be representative of minority interests.

Failing this, I would urge that a member of the Executive Council or Cabinet be specially charged with the protection of Anglo-Indian interests, with a view:—

(*a*) to ensure that its employment in the government services, especially the Central Services of India, does not fall below a certain percentage for a stated number of years—the present percentage, which can be ascertained, to be taken as the standard and the period of protection to be not less than 30 years;

(*b*) the protection of European education, which is inseparably connected with our religious training—this protection to take the following form:—

(1) The immediate creation of an Educational Trust Fund, of an amount equal to the present total annual contributions by various Provincial Governments and the Government of India for European education, *viz.*: 50 lakhs of rupees, the interest from which to be utilised for scholarships and stipends for Anglo-Indian boys and girls to secure higher education both academic and vocational in India and Europe; and this without prejudice to the

present grants-in-aid which should continue to be given for the next thirty years;

(2) The allotment to this Educational Trust Fund of any sums lapsed to the State owing to the demise of beneficiaries of any other Anglo-Indian or European Trust Fund, such as the " Upper Military Asylum Fund " and the " Uncovenanted Service Family Pension Fund ".

Sir Hubert Carr: I think the proceedings so far show us how necessary it is that all minorities shall take advantage of this great opportunity for stating the requirements of their position and the safeguards which they call for to enable them to feel that sense of security which alone can make the future constitution satisfactory. I need not go into the history of the British merchant and civilian in India; it is well known and it would only take up unnecessary time; but I would like to stress the position that throughout that history the relationship between the British non-official and his Indian fellow-citizen has been of the happiest description. In former days it was more frequently restricted to the relationship which extended to the Indian in subordinate positions in offices and factories, but to-day that relationship has changed largely to one between co-workers, and to-day all my community welcome the partnership which exists and grows between the Englishman and the Indian in commerce and in civil life in India.

Of course, we cannot be expected to look at this question from exactly the same standpoint as other minorities. There are obvious differences, but perhaps there is a bond which is not quite so obvious, and that is that there is a bond of very real sympathy between the Englishman in India and the Indian; and—I say it without any fear of being questioned—that opinion amongst my community in India of late years has taken on a sympathetic colour, and a practically sympathetic colour to Indian aspirations which may have been wanting in the past but is certainly not wanting to-day. We are—I say it definitely—anxious to see India progress to that goal which has been announced and from which nobody wishes to detract in any way, and we are happy to lend our support as far as we can to making conditions such that a self-governing India becomes materialised. To those—and there must be those—who are cynical as to our outlook in this respect, I can only make another appeal to the genuineness of my position, and that is by saying that we recognise perfectly well that our material gain as merchants and commercial men in India is wrapped up with the happiness, prosperity and progressiveness of India as a whole.

In putting forward our claims, I would like, if I may, to recall the kindly remarks that were made at the opening of the Conference when Sir Tej Bahadur Sapru said: " We are anxious that our friends the Europeans who have settled down in India, or who carry on their business there, should feel that they have the same

rights and privileges which genuine-born Indians have. They are welcome to suggest any safeguards for their rights and interests, and we shall be more than willing to meet them." Mr. Jayakar also, speaking from another standpoint, forecast a friendly attitude towards our claim when he said: "Speaking of British commercial people in India, I can assure them that we are quite willing to sit down and consider safeguards which will give them an equal chance with British Indians."

Now, such assurances in tackling what may be a difficult question is full of promise for a satisfactory outcome, and particularly when those who are not definitely represented here mentioned in the All-Parties Conference, in their Supplementary Report, speaking on the word "citizen," suggested that it should mean every person who, being a subject of the Crown, carries on business or resides in the territories of the Commonwealth.

Now, with such feelings, surely the expression of such good will is good enough, and, as I say, we do accept it with much appreciation; but it must be recognised that there are parties who very definitely dislike our position in India; they think it has been unfairly won, and they are very ready to take advantage of any constitutional position to undermine ours. The dangers are set forth so clearly in the Government of India Despatch, beginning at paragraph 184, which has been in everyone's hands, that I do not think it necessary to dwell on them; but our interests out there are enormous, and we must get them on a proper basis for protection.

The protection we ask for is of a double nature, because it is not only personal, including civil rights, education, etc., but also commercial, and it is twofold in operation: it is legislative and administrative. Firstly, it is essential to the proper representation of our community that we should have separate electorates. With us there is no possible alternative. Perhaps when we have been there thirteen centuries, we may be prepared to give them up, but meantime we can conceive no other method by which we can send representatives to assist in the deliberations of the legislature who will have our confidence and represent our views.

Regarding the civil and criminal law, the present arrangement appears to be thoroughly satisfactory, and you will remember that it was the outcome of a very searching enquiry conducted in 1922, when some of those here to-day and myself were in consultation in trying to find a *via media* which would satisfy all communities; and it is interesting to remember that in finding that satisfactory solution there was no diminution of any rights, but the solution was based on a levelling-up by which all of us received the same rights and privileges. We do feel that those privileges, such as they are, are extremely valuable, and we could in no way offer to forego them. I would remind you, not now speaking simply of our community in the big cities, that we have members scattered all over the mofussil, up in the planting districts, out in the jungle,

and one knows perfectly well that amongst the backward people with whom they are largely brought into contact the false charge and the easy manufacture of evidence is something which constitutes an extremely real danger to those working in the mofussil unless they have their protection. Therefore that protection is absolutely necessary to us.

It is on that basis of qeual rights—in those criminal laws we are not asking for any rights which are not shared with Indians—and it is in that spirit that I approach the commercial question. We are not asking for any rights or privileges for our own community; we simply want to be recognised to have exactly the same rights—when I say "we" I refer to those of us from Great Britain and Northern Ireland—as any of His Majesty's subjects in India with regard to commerce and industry. That is a point which we do not attempt to make on behalf of all citizens of the British Empire. We recognise the position of India, and we feel that it should be open to the Indian Government to make such arrangements as it wishes to make with other parts of the Empire who may discriminate against India. Therefore my claims are made on behalf of those from Great Britain and Northern Ireland.

One of the criticisms in dealing with this subject is, we think, a very reasonable one, and that is that many of us live and work out there, bring home such of our savings as we can make, at any rate to a large extent, and if we die the day after arrival the English Chancellor of the Exchequer gets the full benefit. Well, we think that that is a matter which only has to be ventilated to allow some arrangement between the two countries to be arrived at, and it is one to which my community is perfectly sympathetic.

I would like to make it clear, Sir, that in asking for absolute rights, the same as we have at present and the same as are enjoyed by Indians in India and in England—the whole position is reciprocal—that we are not wishing in any way to attempt to put any restrictions upon Indian fiscal policy. If India wishes to go in for a tariff wall she must be allowed to decide her own destiny, but behind that wall we would expect to be allowed to work in exactly the same way as Indians. We may have feelings about the tariff wall, as to whether it is wise or not, but that is not a matter to enter into here, and we do very strongly favour a Tariff Board such as is operating in India, and is really accepted as a pattern to the world.

One of the points upon which we do differ very strongly is this question of the policy set forth in two or three places, but particularly in the External Capital Committee, where the proposal is made, and has been more or less adopted, to insist upon a certain percentage of Indian directors and Indian capital and Indian staff in industrial enterprise. Well, that is coupled with various proposals in other parts to put restrictions upon European banking and insurance, etc. These restrictions are based for precedent upon conditions ruling in various countries, such as France and

Russia, and even in Germany. We could not possibly accept that as any basis whatever for the treatment of British Commerce in India. We absolutely object to making race a question of management of business and industry. To start with, we do not believe it is really practical to insist upon a certain number of Indian directors. That would be to create a union which, if effective, would only lead to friction and could be made easily ineffective—for I do not think "guinea pigs" in India are any more expensive than they are at home.

As regards capital, we claim absolutely equal rights for sterling and rupee companies, except when Government makes a specific financial assistance to some concern; then we recognise obviously the right to demand that that capital shall be rupee capital; but indiscriminate instances of this point would only militate against the standing of various useful institutions such as Banks, Insurance Companies, etc., and would achieve no good object in our opinion.

May I deal with one point which is sometimes made—that the British have made good use of their time. It is put in rather another way—that the British have been racially so favoured that they have got into a position which cannot be overtaken by Indian enterprise if all start at the present time on the same lines. We cannot be expected to agree with that. If we have established a position out there, it has not been anything to do with racial questions; it has been fair competition. It has been open to anybody. That is proved by the many prosperous Indian concerns in India. It is merely a matter of competition. We are out there for a certain purpose, and we have made the best use we could of our time; but we do not admit for one moment that any question of raciality has contributed to our position, or that on that account we should be in any way handicapped under the new constitution.

To meet these difficulties on which I have touched, two years ago when the Simon Commission was out we put forward certain proposals for a prohibition on legislation to give us our safeguards. The Commission found that unsatisfactory: so much of the undesirable discrimination would, as they pointed out, be administrative rather than legislative. But we do feel that we might approach this subject from a different standpoint, and I would particularly like to put it before this Conference, which is representative of India. We would like to base the British Commercial position in India upon a perfectly open treaty based on reciprocal treatment in the two countries and formed between the Government of India, and the Government of Britain. Such an agreement would give us absoulte equality of position out there with any Indian commercially and industrially. It would cover all persons and parties in both India and Great Britain and North Ireland and it would be intended to cover immigration, settlement, residence, travel, exercise of any forms of occupation, the carrying on of any kind of business or the acquisition of any kind of property—in fact a general trading agreement on national lines between the

two countries. With our great interests to what, we have naturally taken up such an agreement as this with lawyers, and we have got the best advice we can, and we have a draft agreement which will be produced for examination at the right time.

But the principle of absolute equality for English people living in India is the principle I would like to see adopted by this Conference, and approved by this Conference, and a principle which, in view of the quotations I gave from some of the most prominent members here, seems to be in line with the general sympathetic attitude with which you have listened to my claim, and to the general friendly relationship which exists between us in India.

Perhaps I may conclude by putting again my three great points. We want absolutely definitely separate electorates. We want the maintenance of civil and criminal rights such as we have now, and we want the safeguard of our commercial rights on a basis of reciprocal agreement which will accord Indians in England the same rights as we ask for in India.

Dr. Moonje: As representing the majority community, and as being regarded as an elder brother in our Indian society, I as the elder brother have the right and the privilege of making concessions and pulling ears also as occasion requires.

I am asked to make a statement at a time when I do not know officially or formally what the demands are on behalf of the great Muslim community. I have heard what my friends Mr. Srinivasan and Dr. Ambedkar had to say.

Dr. Ambedkar: I have not said it yet.

Dr. Moonje: I have heard what my friend Sir Phiroze Sethna had to say. I have heard what Rao Bahadur Pannir Selvam had to say, who represents part of his Christian community. All other minorities have made it quite clear that they regard separate electorates as an evil and that they are prepared to cast their lot into the common pool. (Indications of dissent.) I make an exception in the case of Sir Hubert Carr. I have not in mind the sort of minority he represents—men who go out of England and make their pile in India and then go back home, and other men following and doing the same thing. I am thinking of the true children of the soil,—those who are the minorities, excepting half of the Christian community and excepting the Muslims. They are all prepared to merge their whole lot in the common pool of Indian Nationalism.

Lieut.-Colonel Gidney: Not the Anglo-Indians.

Dr. Moonje: I should therefore have expected that the Mussalmans would make out a good case for their special demands; but, since it is not forthcoming at the present moment, I have therefore to fall back on general grounds.

The minorities problem is not a problem peculiar to India; it has been a great problem in Europe, and that problem has been considered and solved to a very great extent by a body called the

League of Nations, which has evolved certain principles and certain methods of work. If those principles and methods of work are taken as a test, I think it should provide a most desirable solution of the problem that seems to afflict us, and for that purpose I should like to quote a few principles which I have noted down as to how they have solved the minorities problem in Europe.

In Europe it seems that the minorities have been suffering under much greater disadvantages, the like of which are not to be found in India except to some extent in the case of Dr. Ambedkar, and Dr. Ambedkar's case is a religious and social question of ours. Except in the case of Dr. Ambedkar, no minority in India has suffered the same calamities, the same shortcomings, the same difficulties and disabilities that the minorities in Europe have suffered; and, taking that into consideration, I am surprised at the very general methods by which they in Europe have tried to solve their problem.

They have defined a minority in a way which I think constitutes the real definition of a minority; they have defined a minority in such a way that the unity of the State may not be destroyed. The State as a whole must be maintained; provided sufficient protection is given to the minorities where protection is needed. They have said that the minorities could be defined only in point of their religion, in point of their race, and in point of their language; these are the three qualifications by which they have defined a minority. They have not recognised a minority in the public administration of the country; they are all regarded in the public administration of the country as equal national subjects of the State, whether they be by religion separate, whether they be Poles or Ruthenians or Lithuanians or whatever it may be, or whether they speak different languages. In the public administration of the country they are all nationals, and there is no discrimination on the ground of race, religion or language, and they have amply provided for their protection.

There is no need for protection on those grounds in India. I do not think any Mussalman has made the complaint—I do not think such a complaint has been made by any Sikh, Christian or Mussalman—that his religion has not been sufficiently protected or that his language has not been sufficiently protected or that not sufficient help has been given for the advancement of his culture. (*Indications of dissent.*) So far I do not think there has been any complaint, but I am speaking under a handicap, because I do not know what the Muhammadan case is. If your statement be that you have suffered under the Hindu majority in respect of your religion, in respect of your language or in respect of your culture I should like to know your instances, and then I should be prepared to give you adequate protection; but, so far as my knowledge goes, no such grievance has been made out. If there is any sense of grievance on that account, I am prepared to give the greatest measure of protection that is needed on the lines settled by the

League of Nations. They provide for complete protection of life and liberty and the free exercise, both public and private, of any religion whose practices are not inconsistent with public order and public morals. That is guaranteed to all the inhabitants without distinction of birth, nationality, race or religion. I think as things stand in India at the present moment there is no need for protection of this kind, but if there is a feeling of grievance this will give the fullest assurance of protection.

Provision is also made by the League of Nations for the removal of the disabilities of minorities in respect of the restriction of admission of minorities to the universities, and the liberal professions, to positions as commissioned and non-commissioned officers in the Army, public services, legislatures and cabinets. I do not think there is any allegation that in India they have not been given, or have been prevented from having, their adequate share in all these cases. I do not think there is any such allegation, but if there is I am quite prepared to make proper provision in order that any grievance, if grievance there be, may be removed. That is why I awaited a statement from the Muhammadans, so that I might know how to reply.

Provision is made for placing all nationalities, irrespective of distinctions of race, religion or language, on a perfectly equal footing before the law, so that these distinctions shall be no bar to any poiltical or civil right, such as the possession, purchase or sale of landed property, acceptance of tenders for public works, granting of credits for building and reconstruction work, forming of guilds and co-operative associations, etc. I do not think there is any grievance on this account in India, and therefore I do not think there is any demand for protection on this account.

All nationals of a State are to enjoy the same civil and religious rights, and no one is to be debarred on religious grounds from admission to public employment or functions or honours or from the exercise of professional duties. There is no grievance by any minority in India in this matter. The utmost demand that has been made in Europe was made when all the European minorities met together in a national Congress of their own and passed a resolution which represents the utmost they demand, and which is as follows: "The Congress demands the introduction of an electoral system which will ensure the representation of minorities in proportion to their numbers." That is the utmost demand that I can find which has been made for representation in the legislatures. I have not been able to find any illustration of the kind of demands so far reported to have been made in public by our Mussalman friends. I do not know whether I should refer to what appeared in the Press yesterday as a report of a speech made by Sir Muhammad Iqbal.

Raja Narendra Nath: Yes.

Dr. Moonje: He is President of the Muslim League in India. I am loath to refer to that matter, but as insistent demands on

these lines have been made, I am painfully obliged to refer to it. But instead of replying to that mentality in my own language, I should like to make an appeal to my brethren here to listen to the advice given on the subject by an expert on the problem of minorities, Professor Gilbert Murray. Professor Gilbert Murray, who is one of the recognised authorities on the subject of the protection of minorities, says that the Minority Clauses in the Peace Treaties, based on the principles which I have stated, contain the best practical remedy, but at the same time hold out the warning that minorities cannot expect to be treated as friends and fellow-subjects if they regard themselves as foreigners and put their faith in their kinsmen beyond the frontiers.

I appeal to our Muhammadan friends not to let sentiment run away with them. We are all people living in India; there is no difference in bone and blood between you and us. We are all children of the same people, and we are prepared to give you the utmost protection you demand for your culture, for your religion and for your race progress. I appeal to you to take up your courage in both hands and to put yourselves in the common pool of the nationality of India; and I am positive that if you try that experiment for the next ten years you will never have cause for complaint, just as Sir Phiroze Sethna has no cause for complaint. On his merits and on his competence and on his intelligence he has been able to hold his own, and we have regarded his people as pioneers in certain industries and as occupying a position in regard to them to which we can never aspire. In the same way, if you take your courage in both hands and put yourselves in the common pool of nationality, and then there will be no cause for any kind of grievance; everybody will take his own share according to his competence, intelligence and capacity and other merits that go to make a man a man.

Beyond that I have nothing more to say at the present moment. I may say it is exactly on these lines, though without studying these European arrangements beforehand, that the Hindu Mahasabha has issued a statement with regard to the demands made by the Muhammadans informally in public. I am glad to find the principles enunciated by the Hindu Mahasabha in dealing with these demands are exactly on par with the principles evolved by the League of Nations. I was absolutely in ignorance of the principles laid down by the League when these principles were drawn up by me in the Hindu Mahasabha, but, having read these things since coming over here, I find I have nothing to withdraw from the statement I have drawn up on behalf of the Hindu Mahasabha with regard to the Muhammadan demands.

This is the only statement I can make at the present time, but in view of any special points which may be brought forward later I reserve my right to give my answer when the time comes.

Sir Muhammad Shafi: Mr. Prime Minister, on Friday last you were pleased to address a weighty appeal to the representatives of

all the various groups in this sub-Committee for an amicable settlement of the minorities problem. Your appeal was supplemented by two very touching appeals made by the two lady members of this sub-Committee. With the exception of one discordant note, with which I shall deal later, the representatives of the other groups have placed their respective cases before this sub-Committee for its consideration, and it has fallen to my lot this morning to make a statement on behalf of the Mussalman community.

In making that statement I propose to confine myself, with the exception, of course, of a few brief preliminary observations, to the points which fall properly within the cognisance of this sub-Committee, leaving out those matters with which really the Federal Structure sub-Committee is concerned.

My friend Dr. Moonje has indulged in a few generalities and has stated that until he knows what the demands of the Mussalman community are he is not in a position to discuss them. My friend has been in possession of those demands not only since his arrival here in this country, but since December 31st, 1928, and January 1st, 1929, and yet he has been pleased to ignore them, if I may venture to say so. I should have thought that the best plan, before the representatives of the three great British parties, would have been to deal fairly and squarely with those demands, of which my friend Dr. Moonje is aware already, and not, after indulging in a few generalities, to sit down, as he has done. That is, I submit, a perfectly legitimate complaint on my part as the representative of the Mussalman group.

So far as nationalism is concerned, so far as our patriotic duty to our common Motherland is concerned, I venture to think that the Mussalman representatives have given conclusive proof of it, not only on the day when His Majesty the King Emperor opened the Conference, but also during the Plenary Sittings of the Conference which took place in the first week. We have in plain language unequivocably made it perfectly clear that we, as sons of India, claim for our country Dominion Status as an equal partner in the British Commonwealth of Nations. And, therefore, neither Dr. Moonje nor anyone else, I venture to submit, has any right to question our patriotism and our nationalism.

But we on this side recognise the distinction between status and constitution. Let me make my meaning perfectly clear by giving you two illustrations. In the international sphere France and England occupy the same status as independent countries; the constitutions of both are founded on democratic principles; yet the constitutions of the two countries are poles apart, since one is a Republic and the other a Constitutional Monarchy. Coming nearer home, we have the British Commonwealth of Nations, of which we hope soon to see India as an equal member along with the other Dominions. Now, the constitutions of these Dominions are also based on democratic principles, and yet, if you compare the constitution of Australia with the constitution of Canada, not only will

you find differences in detail but even differences in basic principle, for one is centripetal and the other is centrifugal, so that so far as constitution is concerned it must be distinguished from status. And to frame a new constitution for a country in blind imitation—if I may use the expression—of other constitutions elsewhere, in total disregard of the actually existing conditions in that country would, I venture to submit, ultimately end in disaster.

Now, what are the actually existing conditions in India which must be borne in mind in framing a constitution for that country, if that constitution is hereafter to work smoothly and is to secure the happiness and contentment of the 310 millions of His Majesty's subjects in that country?

So far as this sub-Committee is concerned, we have first of all the millions of pre-Aryan aborigines of India, who are now generally referred to as the Depressed Classes, and who have for 3,000 years in the history of India been treated by the Aryan conquerors as untouchables. We have next the Aryan conquerors, the caste Hindus, who have appealed to us in the name of nationalism and who constitute, no doubt, the largest group—the majority, if you like to call it so—in the country. Next—and it is in their proper sequence historically that I am mentioning these various groups—you have the 71 millions of His Majesty's Mussalman subjects in India. In regard to this group there is one fact to which I invite the attention of this sub-Committee in particular, and it is this. The political importance of this group, not only from the internal and the international points of view but also from the point of view of its capacity to contribute to the defence not only of India but of the British Commonwealth of Nations, must be borne in mind.

Just at this moment what is the position in India? Excluding the British garrison and the mercenary troops from Nepal, what is the position? The Mussalman group in India provides a little over one half of the entire Indian Army. That has got to be borne in mind also with respect to another claim which I am going to make on behalf of my community. It is clear, therefore, that the political importance of the Mussalman community cannot be judged by its numbers.

We have next the smaller groups, which, although numerically smaller, yet in importance and in their weight in the affairs of India are very important groups—the European commercial representatives, the Anglo-Indians, the Indian Christians. These are the actually existing conditions in India which have got to be borne in mind when framing a constitution for India, for I take it that the basic principle of democratic government is that it should be truly representative of the people of the country. We Mussalmans realise that as was said by His Royal Highness the Duke of Connaught in his speech in inaugurating the Montagu-Chelmsford Reforms ten years ago: "The days of autocracy are over; the age of democracy has come in"; and in consequence we, the Mussalman

group, recognise that the constitution which the British Parliament has to frame for India must necessarily be based upon democratic principles.

Now, what is the basic principle of democratic government? The basic principle of democratic government is that the government of a country, both on the executive side and on the legislative side, must be truly representative of the people of that country. That is the real, that is the main basic principle. All this talk of nationalism and so on and so on, for certain purposes, to my mind, is beside the point. I repeat the basic principle of democratic government is that the government of the country, both on the executive and on the legislative side, must be truly representative of the people of that country. In other words, so far as India is concerned, the Government of India—the Government of the self-governing India of the future—for which we are called upon to frame a constitution, must be truly representative of the Hindu element, the Muslim element, the European element, the Anglo-Indian element, the depressed classes and the Sikhs, who are, as I claim, an off-shoot of the Hindu community. It must be truly representative, and if you frame a constitution which does not satisfy this main requirement, believe me, your constitution will not work, and not only will it not work but it will create discontent amongst the minorities in India, because it will have brought into existence not a representative government but an oligarchy: And an oligarchy in India will result in this, that instead of giving India peace, instead of giving India contentment, instead of giving India prosperity, you will be giving India a state of things which will lead to disaster. I as a nationalist, I as a democrat, want the Government of India to be truly representative of the people of India. All we Mussalmans are born democrats, for democracy is of the quintessence of our religion. Look what has happened in Turkey. Turkey has gone back towards the earlier ages of Islam, when even the Caliph of Islam was elected, the religious head of Islam was elected by the people. Democracy, as I say, is there in the marrow of our bones, and that is why we want the Government of India to be truly representative of the people of India.

Well, then, what are those demands in so far as our position in the self-governing India of the future is concerned? Let us first take the executive side. What we say is this. I am going to place our demands before you in plain, unvarnished language, and I am going to leave it to you to judge whether our demands are not in perfect consonance with democratic ideals, are not based on justice; and if you once agree that they are founded on democratic principles and are based on justice, then I demand, on behalf of the 71,000,000 of Indian Mussalmans, simply this, that in the highest rungs of the executive ladder, if I may use that expression —that is to say, in the Cabinets, the Central and Provincial—a provision should be made (I do not care whether it is in the instrument of Instructions to the Governors or otherwise) we should secure

the Mussalman community a place in the Central as well as in the Provincial Cabinets.

Coming down to the lower rungs of the executive ladder—that is, the Services—our demand is simply this. We say that recruitment to the Services should no longer be dependent upon the individual idiosyncracies or choice or selection of Ministers; there must be a Public Services Commission, both at the Centre as well as in the Provinces, and it should be an instruction to the Public Services Commission to see that in recruiting for the public services the fair claims of the various communities are borne in mind. Now, I put it to you, are these demands that I place before you on behalf of the Muslim community anything——

Dr. Moonje: I wish you had made them before; I would have replied to you.

Sir Muhammad Shafi: They have been made before and have been replied to before. Please do not interrupt me. I do not want to say things; you understand; but if you compel me, I must. To my knowledge they have been made.

Dr. Moonje: To your knowledge they have been replied to.

Sir Muhammad Shafi: You have brought into your speech today references to certain matters to which I did not want any reference made at this meeting. Unfortunately you have compelled me to make reference to them, and when dealing with your speech I shall deal with that point.

Are these demands that I have placed before you, so far as the Executive is concerned, anything else but such as are based upon democratic principles? I say, no doubt the Public Services Commission must bear the requirements of efficiency in mind. We Mussalmans freely admit that necessity. We say that the Public Services Commission should bear the requirements of efficiency in mind, but having satisfied themselves so far as efficiency is concerned, they should recruit for the Services so as to secure the representation of all the communities having a material stake in the country, for unless you do that, you create an oligarchy. That is our position so far as the Executive is concerned.

Coming now to the legislature, let me first take the Central Legislature. Our demand is this. We are excluding Burma, as we expect it to be separated.

Mr. Shiva Rao: No!

Sir Muhammad Shafi: A little over 25 per cent. of the population of British India are Mussalmans. What we ask is $33\frac{1}{3}$ per cent. representation, so far as British India is concerned, in the Central Legislature; and our demand here again is based, not only on security for a minority, not only on that ground, but also on historical grounds. This is a demand which was put forward by the All-India Muhammadan deputation under the leadership of

His Highness the Aga Khan which waited on the late Lord Minto at the Viceregal Lodge at Simla on 1st October, 1906. There the Muslim case was that the political importance of the Muslim community should not be judged by its numbers. As you are aware, Sir, we are all agreed that the defence of India should remain a reserved subject for some time to come. That will be one of the principal charges entrusted to the Central Government. On whose shoulders will the defence of India in the main fall, should India be in danger? I venture to submit that it will fall on the shoulders of the Mussalmans to a much greater degree than would follow from their proportion in the population of India. The justice of that claim was recognised by Lord Minto, and when the late Mr. John Morley, a democrat, an apostle of Liberalism, introduced the Bill embodying what were known as the Minto-Morley Reforms before the House of Commons, this is what he said in his speech. I will read only that portion which is relevant to two of the matters which have been discussed around this table. He said: " The Muhammadans 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 the election of their own representatives to these Councils in all the stages, just as in Cyprus, where I think the Muhammadans vote by themselves. They have nine votes, and the non-Muhammadans have three, or the other way about. So in Bohemia, where the Germans vote alone and have their own register." This will show you, Sir, that the demand of Mussalmans for separate electorates was not unprecedented in the history of Europe, even at that time in 1910, or before. 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 yield in full."

We are asking for nothing more, nothing new in the new constitution which is to be framed for India in so far as the Central Government is concerned. I venture to submit that in all fairness we are entitled to this.

Coming down to the Provincial Legislative Councils, what we say is this. There are from the Muslim point of view majority Provinces and minority Provinces in India. In six out of eight Governors' Provinces—I will not say nine now; I will leave Burma out—the Mussalmans are in a minority. In two Provinces, Bengal and the Punjab, they are in a small majority. The difference between these majorities of Hindus in the one group and Mussalmans in the other group is this, that the Hindu majorities in the six Provinces are overwhelming. In spite of the weightage which the Mussalmans at present enjoy, the Hindus are still in an overwhelming majority, ranging between 70 per cent. and 85 per cent.; while in Bengal and in the Punjab in so far as the population is concerned, our majority is only 55½ per cent. in the Punjab and 54½ per cent. in Bengal.

Here I must deal with a point which has been urged very often in speeches. It has been assumed in those speeches that the weightage which the Mussalmans enjoy in these six Governors' Provinces, where they are in a minority, is the result of what is known as the Congress-League Pact, the Lucknow Pact. That is an entire misconception of the whole situation. From the passage which I have read out to you just now, from the speech delivered by Mr. Morley, you will see that the weightage which was given to the Mussalmans in these minority Provinces was given at the time of the Minto-Morley Reforms in 1909-1910, and it is as a result of the decision arrived at by the British Parliament then that we got that weightage, arrived at on other grounds, grounds which were mentioned in the representation made to Lord Minto and the reality of which both Lord Minto and Mr. John Morley fully recognised. This weightage is in no way the result of the Congress-League Pact. What did happen in the Congress-League Pact was this, that while the Minto-Morley Reforms gave the Mussalmans in the minority Provinces separate electorates, those Reforms did not give separate electorates to the Mussalmans of Bengal and the Punjab. The Mussalmans of Bengal and the Punjab from that moment were protesting against the withholding of this privilege from them in these two Provinces. They had raised considerable agitation, and that agitation was resulting in certain difficulties, both for the Government and for the Congress. Well, the Muslim League and the Congress met at Lucknow. I do not wish to go into the details of how that decision was brought about. Separate electorates were extended to Bengal and the Punjab as a result of that Pact, but neither in the Punjab nor in Bengal was the Muslim majority granted its majority rights. I dare say those Mussalmans who were party to that Pact in spite of the protest made there and then by the late Nawab Sayed Namali Ali Chowdhuri, who was present at the meeting on behalf of the Mussalmans of Bengal, and excepting the Mussalman gentlemen who were parties to this Pact, there was no Mussalman representative from the Punjab present—in spite of that the Mussalmans who were present agreed to it, I have no doubt, because the right of separate electorate was being extended to the Punjab and Bengal, and there was no question of responsibility or provincial autonomy before India at that time, and also the retention of the official bloc in the Legislative Council was contemplated. Therefore, while acquiring the right of separate electorates, and while the official bloc was there, and there was no question of responsibility or provincial autonomy, those present agreed. But let me tell you this, that the Mussalmans of Bengal and the Punjab protested against that Pact, and have continued to protest right up to now. So that this argument based on the Lucknow Pact really has no force of any kind whatever. Putting it aside——I have finished the argument on the Lucknow Pact, and perhaps we had better stop here now.

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

PROCEEDINGS OF THE THIRD MEETING OF SUB-COMMITTEE NO. III. (MINORITIES) HELD JANUARY 1ST, 1931, AT 10-30 A.M. AND 10 P.M.

Sir Muhammad Shafi: Mr. Prime Minister, before proceeding from where I left off yesterday there is one inadvertent omission in a previous portion of my statement to which, with your permission, I propose to refer. The sub-Committee will remember I stated on behalf of my community that they desire a provision to be made, whether in the Instrument of Instructions to the Governor-General and the various Governors or otherwise, for the inclusion of a Mussalman representative in the central Cabinet and in the Provincial Cabinets of the six Governors' Provinces in which the Mussalmans constitute a minority of the population. I forgot to add that my community fully recognise that, in justice to our Hindu brethren, a similar provision should be embodied in the Instrument of Instructions or otherwise in regard to those Provinces—Sind, the North-West Frontier Province and Bengal—in which the Hindus constitute a minority of the population, and there should also be a provision for the inclusion in the Punjab Cabinet of a Hindu and a Sikh, so that the whole picture may be complete.

Now, proceeding from where I left off yesterday, I was emphasising the fact that the weightage which the Mussalman community have enjoyed for the last twenty years in the six Governors' Provinces in which they constitute a minority was the result of the recognition by Lord Minto and Mr. John Morley of the political importance of the community, and was also based on the principle of security being given to the minorities. I should like to mention in this connection that my community entirely agree that similar weightage should be given to our Hindu brethren in the Province of Sind and the North-West Frontier Province, where the position of the Hindus is analogous to the position of the Mussalmans in the six Provinces. In so far as the Punjab and Bengal—the two major Provinces—are concerned, the so-called majority of the Muslim community is nominal only, and the minorities in these two Provinces do not stand in any need of protection. In consequence, the Mussalmans insist that in these two Provinces they should be given their proportional representation.

The Mussalmans take their stand on this: Just as our Hindu brethren are entitled to their rights of majority in the six Governors' Provinces in which the Mussalmans constitute a minority of the population, similarly the Mussalmans are also entitled to their rights of majority in the four Provinces in which they constitute a majority of the population.

There is one further reason to which I wish to refer in this connection. To my mind the Federal India of the future with the Central Government in the hands of the majority community, and the Provincial Governments in six out of the eight Governors' Provinces in the hands of the same community, the four Provinces in which the majority community will be in a minority and the

minority community will be in a majority will in itself constitute a guarantee of good treatment by both the communities. To me this one picture as regards the future is the most fascinating and the most attractive, for to my mind this is the real solution, the permanent solution, of the Hindu-Muhammadan problem in India.

That this was the view which prevailed even in Hindu Mahasabha circles before the end of 1925 admits of no doubt. Until then certain other influences, which began to prevail afterwards, had not come into operation. At the anniversary of the All-India Hindu Mahasabha held at Cawnpore during Christmas, 1925, Mr. N. C. Kelkar, in his Presidential address, visualized the future of India in these words: " In the Frontier Provinces "—that is, the North-West Frontier Province and Baluchistan—" the Punjab, Bengal and Sind "—you will notice he names Sind separately as a Province—" the Muhammadans would be in a position of advantage. On the other hand, the Hindus would be in a position of advantage in the other Provinces. Does this not give a kind of automatic guarantee against the ill-treatment of any one community by another in any Province, assuming that the Hindu and Muhammadan communities are both animated by fellow feelings for their co-religionists? " These are not my words; they are the words of Mr. N. C. Kelkar as President of the All-India Hindu Mahasabha at the anniversary of that organisation celebrated in Cawnpore in 1925. It is clear, therefore, that at any rate until 1925 opinion was unanimous in India among the two great communities of that country, the Hindus and the Mussalmans, that the future of India should be built up along these lines.

In the majority of the Provinces our Hindu brethren have the position of advantage, as Mr. N. C. Kelkar describes it. In only a minority of the Provinces—four—have the Mussalmans a similar position of advantage, with the result that there will be an automatic guarantee of good treatment to both the communities. That will be the permanent solution of the Hindu-Muhammadan problem in India.

And now, before I proceed further, I want if I may to ask the sub-Committee to note the effect of my statement up to this stage. With regard to the position of the Mussalman community, the effect is this. All matters of common interest to the whole of India, including even defence, will, if the conditions to which I have referred come into existence, be entirely in the hands of our brethren the Hindu community, a community which will have a permanent and unalterable majority in the Central Government. We Mussalmans recognise that, as the constitutional evolution in India must be on democratic lines, this position is inevitable, and we gladly accept it.

The next result will be that in six out of the eight Governors' Provinces a similar condition will prevail, and similarly we Mussalmans recognise that that position must be accepted. We do not ask for any *quid pro quo* for this acceptance of the position

by the Indian Mussalmans; all we ask is that the majority community should be just enough—aye, generous enough—to recognise the similar right of the Mussalmans in the four Provinces which I have already named. We do not say that if the Hindu majority in the Central Legislature and in the Legislatures of these Provinces comes into existence it will mean Hindu rule and that we Mussalmans cannot tolerate it, and that there will be civil war in these Provinces. We do not say that; democrats as we are by instinct and by tradition, we accept willingly, for the good of India, for the good of our common Motherland, the position which will arise as a result of these conditions.

May I with your permission, Sir, here refer in particular to my Province of the Punjab, and deal with certain observations made by my friend Sardar Sampuran Singh during the course of his speech the other day? I confess I was pained as well as astonished at the language used at this table by the responsible representative of our sister community, the Sikhs. I for one had hoped that the followers of that great saint Baba Guru Nanak, who, when he died, was claimed by the Mussalmans as a Mussalman, and therefore the Mussalman community who wanted to bury him, and by the Hindus as a Hindu, so that the Hindu community wanted to burn his body—I had hoped that the followers of that great saint would, round this table, be the uniting factor between the Muslim and the Hindu communities of the Punjab. It is sad to think that that expectation should have been disappointed.

What did my friend say? You will remember that he gave the sub-Committee certain figures. On the Sikh side the figures could not in any way be made the basis of any complaint by him or by his community; in fact, on the Sikh side the figures mentioned by him, even if they be assumed to be correct, show that Sikh representation under the proposals of the Government of India will be if anything slightly larger than the representation which they at present enjoy.

Sardar Ujjal Singh: Two per cent. more.

Sir Muhammad Shafi: Kindly look at the figures your colleague gave; I am not referring to anything else. They show that the position of my brethren the Sikhs will be if anything slightly better than the position which they have hitherto enjoyed.

Raja Narendra Nath: No; your percentages are wrong. I do not think you have understood the matter.

Sir Muhammad Shafi: I am only taking the figures given by Sardar Sampuran Singh. He said that at present the Sikhs enjoy 18·5 per cent. of the representation, and that under the Government of India scheme they will enjoy 18·6 per cent.

Raja Narendra Nath: 17·6 per cent.

Mr. Zafrullah Khan: He certainly said 18·6 per cent.

Sir Muhammad Shafi: He said 18·6 per cent.

Chairman: I do not want to have interruptions, but if anything is going to be based on this we had better get the position clear.

Sardar Sampuran Singh: Perhaps you are confusing two kinds of percentages which I gave—without the Christians and Europeans, and with them. When you are comparing one set of figures you should compare it with the same kind of figures in the Despatch of the Government of India. When I said that the percentage in the present Council without the Europeans and Christians—

Sir Muhammad Shafi: I venture to submit that this is argument, and not correcting any mistake. My friend wants to argue the whole case over again, apparently.

Sardar Sampuran Singh: No, I am not arguing.

Sir Muhammad Shafi: All I said was that on the Sikh side, according to the figures given by Sardar Sampuran Singh, the position if anything would be slightly better than it has been hitherto. That is all I say. It has nothing to do with comparing that with Muhammadans or with Europeans or with whether the official bloc is there or not; that is entering into argument. His main ground of complaint—and this is the real point of my argument—was that under the Government of India plan there is a possibility of the Mussalman community, which undoubtedly constitutes a majority of the population in the Punjab, having a majority, as against the Hindus and Sikhs combined. That was his main ground of complaint, and it was on that account he suggested there might be civil war in the Province.

Now, Sir, if the Mussalman community had adopted a similar attitude towards constitutional reforms, and if the Mussalman community had said that all over India in the Central Government, in all the other minority Provinces, the Hindus will be in the majority, and we cannot tolerate this, and there will be civil war, well, what would have been the fate of constitutional reforms in India? Surely, surely that is not the attitude that any community in India should adopt provided they are sincere well-wishers of India's constitutional evolution towards full self-government! Either we are patriotic Indians, desirous of our country's advance towards full self-government, desirous of seeing our countrymen rising to that stature to which other people have risen in their own countries, or we are communalists pure and simple. If we are the former, then surely this is not the attitude which we should adopt in relation to the questions which are before this Committee. My friend further observed that his community had no doubt given some trouble to Government in the past, on account of their dissatisfaction with the Montagu-Chelmsford Reforms. Now, I wish that my friend Sardar Sampuran Singh had not made that statement at this table, a statement which is historically incorrect. Fortunately the Viceroy who was at the head of the Government in India at that time is present here at this table. Well, the Sikh

community appear before Lord Chelmsford and Mr. Edwin Montagu through a deputation, and they asked for separate electorates and they asked for representation on the Punjab Council in excess of their proportion.

Sardar Ujjal Singh: They asked for 33 per cent.—one-third.

Sir Muhammad Shafi: Excuse me, Sardar Ujjal Singh; I am not saying what you asked from the Simon Commission, I am referring to the representations made to Mr. Montagu and Lord Chelmsford.

Sardar Ujjal Singh: I am referring to that, too.

Sir Muhammad Shafi: Well, both those demands of the Sikh community were granted. They received roughly 18 per cent. representation instead of 11 per cent. and also separate electorates. When the Montagu-Chelmsford Reforms were introduced, only one section of the Indian communities, and that was the Congress section, decided to boycott the reformed Council. That is an absolutely undeniable fact—only the Congress section. Those Sikhs in the Punjab who belonged to the Congress section of course obeyed the mandate of the Congress, but the majority of the Sikh community actually sent their representatives to the Provincial Council. The whole of the Province was divided into so many Sikh constituencies. In every constituency Sikh candidates stood for election. Every Sikh seat in the Punjab Legislative Council was filled, and what is more, during the whole of this period of ten years, a Sikh representative continued to be either a member of the Executive Council or a Minister in the Punjab Government. But shortly after the Montagu-Chelmsford Council came into existence—or rather, I should have said just about that time—my Sikh brethren were carrying on an agitation in connection with the Gurdwara Reforms. My sympathies were entirely with them in so far as that agitation was concerned—that is to say, what they wanted was that the Gurdwaras, their sacred shrines, should be in the hands of the community, that nominees of the community should manage the endowments connected with those Gurdwaras, and not men who were playing ducks and drakes with those endowments. The Punjab Government introduced a Gurdwara Bill into the Punjab Legislature which was not acceptable to the Sikh community, and was opposed by the Sikh representatives of the community in the Punjab Council; but in spite of their opposition the Punjab Government, on the strength of the majority votes at their command, carried this Bill through. That was the original cause of the Sikh trouble and the Guru Ka Bagh affair gave them the excuse or the cause for the action which they subsequently took. The Guru Ka Bagh affair ran over a long number of months, and the Sikhs showed that they could be non-violent non-co-operators. That was the first cause of trouble. Then the trouble extended to Jaito in the Nabha territory. It continued for some time, and then at Bhaipheru in the Lahore district. That was another sacred shrine. The Sikh trouble started and continued for some time.

This was the trouble which the Sikhs gave to the Punjab Government, on account not of dissatisfaction with the Montagu-Chelmsford Reforms, but on account of the Gurdwara Reform Act. Then ultimately the Punjab Government introduced a fresh measure whereby the old Gurdwara Act was repealed and a new Gurdwara Act, in consonance with the wishes of the Sikh community, was carried through the Punjab Legislative Council. Under this new legislation the Sikh community obtained complete control of their shrines. The Prabhandak Committee, or whatever was the name of the Central Committee, was constituted under the Act, and under that Act the entire Sikh community enjoys adult suffrage in the matter of the election of their representatives to the Central Committee—that is to say, both men and women of 18 years and above —yet I am surprised to hear that my Sikh brethren, with all their democratic ideals, in the Franchise Committee have opposed the extension of the franchise and have recorded their note of dissent from the proposals voted by a majority of that Committee. I am surprised to hear that. Well, this is the history of the Sikh trouble.

Sardar Ujjal Singh: It is entirely wrong to say that we oppose the extension of the franchise.

Sir Muhammad Shafi: I said the proposals of that Committee; I did not say you have opposed the extension of the franchise.

Chairman: I hope members will really remember that this is a Committee dealing with the minority problem, and because we are in a committee and not in a general session of the Conference, we must strictly confine ourselves to the Committee's terms of reference.

Sir Muhammad Shafi: Sir, it is true that my community has not given any trouble to the Government, nor do I make such trouble the basis of a claim for special concession at the expense of other communities. True, all I can point to is the blood of the manhood of my community shed on the battle-fields of three continents in defence of the British Commonwealth of Nations, and along the frontiers of India in defence of our common Motherland, sometimes even against our own co-religionists; but I do not want to refer to all this as a basis for any claim for special concessions. No; all I want is that justice shall be done to my community in the great changes that are going to be introduced in India. I claim nothing but justice; and let it not be said by the future historian that the British Government paid attention to threats and to references to past troubles, but paid no attention whatever to steadfast loyalty and devotion to the British Empire and the British Commonwealth of Nations. That is all I have to say with regard to that.

I now come, Sir, to the question of joint and separate electorates. My friend Sir Phiroze Sethna referred us to his own experiences, the experiences of his own community in Bombay, and asked us,

as a result of those experiences, to accept joint electorates. He further cited some observations made by two eminent statesmen in England. Well, Sir, I am not surprised that my friend, Sir Phiroze Sethna should be an advocate of joint electorates, for I can well understand a representative of the Parsee community, who are confined mainly to Bombay and are numerically 80,000, preferring joint electorates to separate electorates, for if separate electorates were thrust upon them the result would be that perhaps one, perhaps not even one member, perhaps decimal something of a member, would be their representation in the Central Legislature. Moreover, the case of a rich, wealthy, influential community, a small community concentrated in one city in that vast sub-continent of India securing a measure of representation from that city which may be more than the representation to which they would be entitled on a proportional basis is no argument, no argument whatever, on which to base this theory in favour of joint electorates, as my friend has done. I challenge my friend Sir Phiroze Sethna to come to Allahabad, to come to Lahore, to come to Calcutta and stand there as a candidate in any joint electorate. Then, in spite of his great position in the political world of India, I will see if he will get elected through any one of those constituencies.

Sir Phiroze Sethna: Has not a Parsee been elected by a joint electorate in Burma, although the Parsee population is not more than 200 or 300?

Sir Muhammad Shafi: I think the less we talk about Burma after its separation from India the better. We know very well what is the position in Burma. The mercantile community in the capital of Burma which is very rich and very powerful, and I have no doubt that any member of that mercantile community can influence the vote of a joint electorate in Rangoon. Sir Phiroze Sethna, I hope, will remember that I, too, know something about India. After all, I have not entered political life only to-day, and I hope my friend will remember that I have inner knowledge as well as other knowledge of the position as it exists in India, and instead of interrupting me and thereby prolonging my statement, I hope he will quietly listen to what I have to say.

Sir Phiroze Sethna: What about Parsees in the Central Provinces?

Sir Muhammad Shafi: As to the observations of those two eminent British statesmen to which my friend made reference, let me point out that so far as I am aware, those two eminent statesmen had no actual experience or knowledge of the conditions as they exist in India. On the contrary, as far back as the year 1888 Lord Dufferin, when he was Viceroy of India, in connection with this very question of representation in the Legislative Councils emphasised the necessity that in India representation will have to be not in the way representation is secured in England, but representation by interests. I will read a passage out of the Despatch sent by Lord Lansdowne. In 1892 Lord Lansdowne's

Government wrote: "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." That was the opinion expressed by Lord Lansdowne's Government in 1892 and we know that at the next revision of the constitution in India in 1909 both Lord Minto and Mr. John Morley recognised that principle; and when subsequently Lord Chelmsford and Mr. Edwin Montagu prepared their scheme of reforms, although their own predilection was in favour of joint electorates, upon a review of all the circumstances of the case and of the history of separate electorates in India, they, in their Joint Report, stated in clear and unequivocal language that pledges having been given by Viceroys and Secretaries of State to the Indian Mussalmans that their separate electorates would not be taken away from them without their own consent, they accepted the principle of separate electorates for the Mussalmans. And in this connection let me mention one more fact: so has the Simon Commission and so have the Government of India in their Despatch.

There is one important fact in this connection of which I wish to remind the Committee. To my mind, in the existing conditions in India, joint electorates, instead of helping the cause of nationalism, will be detrimental to that cause, for they will provide periodically recurring cause of friction between the two communities. Separate electorates will result in this: A candidate for a depressed class constituency will contest the seat against a brother member of the depressed class constituency; a Mussalman will contest the seat against a member of his own community; a Hindu will contest the seat against a member of his own community; a Sikh will contest a seat against a member of his own community; there is no intercommunal friction; and, as these elections are themselves periodical, separate electorates do not give rise to periodically recurring causes of friction. That this is so was frankly admitted by Mr. Chintamani when he gave his evidence before the Constitutional Enquiry Committee, otherwise known as the Muddiman Committee. He admitted that the introduction of separate electorates in the United Provinces had given rise to satisfaction among the Mussalmans, and had thereby promoted good feeling between Hindus and Mussalmans in that Province: so much so that when he was Minister in that Province he agreed to extend this system of electorates also to municipalities and district boards.

The position is this: consistently from 1888 onwards statesmen of the position of Lord Dufferin and Lord Lansdowne, Governments of India one after another, the Royal Commission recently appointed as well as the present Government of India, have stated that in the conditions as they obtain in India Mussalmans must have their separate electorates. Pledge have been given by Viceroys and Secretaries of State that separate electorates will not be taken away from them without their own consent. Therefore the Mussalman

community take their stand on those pledges; they take their stand on nationalism, and they say that mixed electorates will be detrimental to the cause of nationalism in the existing conditions of the country; therefore we cannot accept them.

The time may come, and no one will welcome that time more than I, when the communities will have learnt to respect each others' right, when they will be prepared to allow to each the position which is legitimately theirs by reason of the stake they hold in the country, and when these unhappy communal troubles will have disappeared. The time may come when these separate electorates will give way to joint electorates. No one will welcome that time more than myself. For the present the only way to secure representative government in India, to give their rights and full position to the European commercial interests, to the Anglo-Indian interests—the Anglo-Indians who too have served the Empire in a manner which is worthy of recognition—to the depressed classes, to the Mussalman community, to my Hindu brethren, to my Sikh brethren—the only way to secure that they shall take their rightful position in the India of to-day in the constitution which is going to be framed for India is that they should have the right to elect their own representatives in separate electorates.

Well, Sir, I have done. There are only a few observations made by my friend Dr. Moonje which finally require some comment from me. He referred to the principles laid down by the League of Nations in regard to the treatment of minority problems in Europe. It is hardly necessary for me to enter into a discussion of those principles. Those principles may be compatible with the conditions which exist in these European countries, but they cannot be regarded as being exhaustive; they cannot be regarded as covering every state of conditions obtaining in all countries of the world. There may be other countries in which the conditions actually obtaining are either entirely different from the conditions obtaining in these European countries, or the circle of those complicated conditions is much wider in those other countries than it is in the countries with which the League of Nations had to deal. Therefore it is unless to refer to whatever may be the principles laid down by the League of Nations in regard to certain European countries. My friend was prepared to give us guarantees with regard to our religion, our culture, our language and matters of that kind. I am very grateful to him for that generous concession. But he said that in so far as administration is concerned there is no need for any such guarantees at all; he had never heard any complaint anywhere in regard to any injustice.

Dr. Moonje: I do not think you represent it rightly.

Chairman: Well, leave it.

Sir Muhammad Shafi: Well, I took it down: "I have never heard any complaints of any injustice by the majority." That is

how I took it down. My friend may have forgotten. The recollection of several of my colleagues is the same as mine.

Dr. Moonje: Get a copy of my speech and read it.

Sir Muhammad Shafi: Well, never mind. Now as regards administration. I should have thought, Sir, that if there was any branch of government which was concerned more than any other branch with the happiness and contentment of the people, it was administration; and in a country like India, where there are so many communities, communities following different religions, observing different social codes, different cultures and so on, a fair representation of all those communities in the administration is necessary for the contentment and happiness of the people. Therefore there is nothing surprising in this, that not only we the Mussalmans, but also representatives of other communities, should demand that their communities should be fairly represented in the services. And, after all, what have we asked? We have asked that recruitment to the Services should not be dependent on the idiosyncracies of ministers, but that it should be made through a duly constituted Public Services Commission.

Dr. Moonje: Quite right.

Sir Muhammad Shafi: And that this Public Services Commission should have instructions to see that, while all the requirements of efficiency are satisfied, the various communities are fairly represented in the Services.

Dr. Moonje was pleased to make a pointed reference to the speech which is said to have been made by Sir Muhammad Iqbal when presiding over the anniversary of the Muslim League at Allahabad three or four days ago. I wish Dr. Moonje had not made this reference, and compelled me thereby to do that which I had no intention whatever of doing, I can assure the Committee, when I came here yesterday morning. Now in the first place, unless the full text of that speech is before me, I cannot pass any judgment on that speech. We know what these telegraphic summaries are Sentences are divorced from the context. Telegraphic summaries, in a responsible body like this, ought not to be made the basis of criticism or of judgment upon a speech. If Sir Muhammad Iqbal said that when there will be a Hindu State in the whole of India by reason of the Hindu being in a permanent and unalterable majority in the Central Government, when there will be six Hindu States out of the eight Governors' Provinces, by reason of a similar unalterable permanent majority in those six Provinces, there ought to be four Mussalman States, because the Mussalmans in those four Provinces are in a majority, I see nothing wrong in that. I myself am prepared to repeat that here before this Committee, for, after all, we are contemplating the bringing into existence of the United States out of the eight Governors' Provinces, by reason of a similar of India before the Constitutional Federal Committee. Each Provincial unit will be a State. There is nothing in that. No pointed reference need have been made, if that is what he said.

But if he said anything in connection with the foundation of an independent Muslim State outside the British Commonwealth of Nations, in the ordinary sense in which such a phrase is used, then I, on behalf of the whole Mussalman Delegation, repudiate that; I absolutely repudiate that on behalf of the whole Delegation. But, Mr. Prime Minister, I can well imagine a Muhammadan exasperated by pronouncements of the type that my friend Dr. Moonje has been making in different parts of India, possibly in a moment of thoughtlessness saying something similar.

Presiding over the anniversary of the Bara Bazar Hindu Mahasabha in Calcutta on the 25th July, 1926, my friend Dr. Moonje traced the history and loss to Hinduism during the last 900 years, quoting Afghanistan, Kashmir and Malabar as instances in point, and also mentioning that Hinduism has lost 70 million of her men to another religion—obviously to Islam. After having done so, Dr. Moonje proclaimed the object of the new Hindu movement in the following words: "The object of the Hindu movement would be to keep together all Hindus and to extend the Hindu religion so that India might be called Hindustan, the land of the Hindus." In the same speech he declared that "it seemed to him that the Hindus were living under two dominations: the political domination of the English based on its trading and machine guns, and the domination of the Muhammadans based on their aggressive mentality." Having said so, he observed: "the mild and docile Hindu is thus the prey to domination of two kinds, and he has to see whether, while putting up with machine-gun domination as an inevitable evil, he was also to put up with the other domination." If I may say so, possibly it was as a result of this speech that Dr. Moonje was elected President of the following anniversary of the All-India Mahasabha. As President at the following anniversary, this is what he said at Patna on the 16th April, 1927, speaking of Hindu-Muslim unity: "This unity is to my mind a volatile commodity, appearing very well and worth having till the price is paid, when it assumes the form of incompatibility and intractability." What he meant by that I do not know. Having stated that he had never been a believer in concessions in bringing about Hindu-Muslim unity, he advised his co-religionists that "they should leave the Mussulman severely alone in their present mentality, leave them to speak and act as they please." And this is what he has done recently here in London. That is the reason why no Hindu-Muslim settlement could be arrived at during the prolonged negotiations that have taken place. I wish Dr. Moonje had not referred to the speech of Dr. Sir Muhammad Iqbal and compelled me to refer to his own speeches in this way; I wish he had not done so; I wish with all my heart he had not done so, for I had no intention whatever of referring to any speeches by any individuals.

In conclusion, I wish to make one more appeal to my Hindu brethren. I say to my Hindu brethren: "You, as the majority community and as children of the same common Motherland, are

in the position of an elder brother. I, as a representative of the minority to which I belong, am also a child of the same common Motherland, and am in the position of a younger brother. Be an elder brother and treat me like a younger brother, and you will find that your younger brother will be a source of the greatest possible strength to this new joint family that will come into existence."

You, my Hindu brethren, want full self-government for your country; you want your country to be an equal partner in the great British Commonwealth of Nations. Remember that in the world conditions which have now come into existence no country, however rich or however powerful, can stand alone. It is for that reason that the tendency of modern international movements is towards the association of nations and countries for purposes of security, mutual help and co-ordination of effort. For us, the people of India, such association is already there in the British Commonwealth of Nations. I have all my life been convinced that the future of India lies within that Commonwealth.

If you want full self-government in your country, if you want your country to be an equal partner in the British Commonwealth of Nations, you, the majority community, who will have the control of all matters of common concern at the Centre in your hands, who will have control of the Provincial Governments in the major portion of India, you can afford to be generous to us, the Muhammadans. And we do not want you to be generous; we only want you to be just and to recognise our legitimate rights and claims in the self-governing India of the future.

Believe me, without this Hindu-Muhammadan unity all your dreams of self-government are in vain. With Hindu-Muhammadan unity you can confront the representatives of the British parties and say, "Here is the united demand of India", and then I am perfectly certain they will see that India is now united and is in a position to conduct the affairs of self-government as an equal member of the British Commonwealth of Nations, and they will be more than ready to meet you half way. But if you do not recognise the legitimate claims of the Mussalmans, and if you therefore alienate the feelings and the sympathies of this great and powerful community, all your dreams of full responsible government will be in vain; for then to whom is the British Parliament to transfer responsibility? To you? The Muhammadans will object. To the Muhammadans? You will object! Therefore the transfer of responsibility, whether at the Centre or in the Provinces, will become impossible unless Hindus and Mussalmans can be united, unless they are both satisfied that in the condition of things which is coming into existence the rights of both will be secure.

To the representatives of His Majesty's Government as well as to the representatives of the other two political parties here in England, I say this. Sir, any pronouncements made by you with regard to the general principles of constitutional evolution in India,

without a simultaneous declaration with regard to the safeguards which are essential to protect the minorities, will not be acceptable to the Mussalman community in India. Let me make this plain. Rumours are going about, and it is because of those rumours that I want to make this plain. Any declaration of policy made by His Majesty's Government or by the representatives of the three great British parties with regard to constitutional evolution, must include a declaration with regard to safeguarding the interests of the minorities and of the Muslim community. Otherwise it will not be acceptable.

Dr. Shafa'at Ahmad Khan: That is it.

Sir M. Shafi: I have done. I am afraid I have taken a good deal of the time of the sub-Committee, but so vital are the issues involved, so important the questions on which I was called on to make a statement on behalf of my community, that I could not do it without occupying a considerable portion of your time. I have in fact abridged my statement and I have tried to put it before you succinctly and in as short a compass as possible. I hope and pray that the Minorities sub-Committee may conclude its deliberations by bringing about an amicable settlement and an understanding between the various groups which are represented upon it, and that in the end it may be in a position to report to the plenary Conference that the minority question in India has been solved to the satisfaction of all the groups; and I do hope that that prayer of mine will not go unheeded.

Chairman: What Sir Muhammad Shafi said towards the conclusion of his speech was perfectly justified, namely, that he was in charge of a very important case which required time and patience, and we gave it him in the most unstinted way. We are very much obliged to him for the way he has put the case of his community before us. It is quite obvious that subsequent speakers, however, will have to confine themselves a little more, or otherwise we shall never finish our work at all.

I should like to say this. If any subsequent speaker is thinking of basing any observations upon what Sir Muhammad Shafi quite properly called rumour, I hope he will not take the trouble to do so. Rumours are jades who are always flying about the streets for mischievous purposes, and the rumour which I see in the Press to-day, and which was in the Press yesterday afternoon, is nothing but an invention by people who desire that this Conference shall not succeed. There is no basis for such a rumour, but I cannot charge myself with contradicting every piece of title-tattle that happens to gain currency.

My friends, we have been co-operating now together for a few weeks, and I do hope you have learned enough of us to be able to assume that absurd rumours are not likely to represent the position either of my colleagues who represent the other parties in the House of Commons and the House of Lords or of His Majesty's

Government itself. I would beg of you always to make that assumption when you hear those stories.

I should like us now to see if we cannot advance the cause of co-operation a little. We have had statements on behalf of the two communities, and if some of you have something to contribute towards bringing them together I should like you to address yourselves to that. There are still one or two communities and interests which have not been heard, and I propose that we should hear them also.

Raja Narendra Nath: I want to say something on a very important matter. I mentioned yesterday that I wanted to speak.

Sardar Ujjal Singh: I also want to speak.

Chairman: I am not going to allow the debate to develop on lines which are not going to be profitable for unity, because we already know what divides us; we have heard all about that. I will call on Raja Narendra Nath and see how the debate develops.

Sir Muhammad Shafi: Mr. Prime Minister, if Raja Narendra Nath is to be allowed to take part in the debate—because it will degenerate into a debate—then, as statements have already been made by the head of his organisation and on this side by a humble representative of the Muslim community, if a further debate is allowed on these statements I must reserve to myself the right of asking one of my colleagues to reply to Raja Narendra Nath.

Raja Narendra Nath: Yes.

Chairman: That is what I have in mind, and I do not think it will help you or His Majesty's Government or the other sections who are co-operating with us at this Conference. I do not want to suppress anything that is essential to a presentation of the facts, and I shall certainly suppress nothing that is going to be helpful for a solution, but I am sure you will support me—all of you, all sections of you—in preventing this exchange of views developing on lines which are going to separate you rather than unite you. With your authority, I will exercise my power as Chairman to guide the debate on those lines.

Raja Narendra Nath: I want to bring out certain points which may be in common with what Sir Muhammad Shafi has said, and I will confine myself to a very narrow issue; but I will wait, if you wish, until Dr. Ambedkar has spoken. I hope I shall not be denied the right of saying what I want to say, for I wish to speak on behalf of the Hindu minority. Dr. Moonje took a general view, but I want to speak on a narrower view.

I shall not take up your time for long; I shall make a very brief speech, because I am going to confine myself to an issue which is very much narrower than the issue raised by Sir Muhammad Shafi. I have listened very carefully to the speeches that have been made, and I am in full agreement with what has been said by Sir P. Sethna and Dr. Moonje against separate electorates. Reference has been made to certain literature connected with the

League of Nations, but it is unnecessary to go so far. I find the point covered by the Montagu-Chelmsford Report, in which separate electorates were recommended with reluctance. I find there a sufficient condemnation of them. They are " opposed ", it is said, " to teachings of history "; they " perpetuate class division and stereotype existing relations ". I invite your attention for my purposes in particular to the last sentence in para. 231, which says: " But we can see no reason to set up communal representation for Muhammadans in any Province where they form a majority of the voters ".

I have, however, a grievance against Sir P. Sethna. When he was enumerating the minorities, he did not mention the Hindu minority at all. I represent a minority which numbers in the Punjab between six and seven millions. My point of view, so far as the minority question is concerned, is the same as that of the Hindu minority of Bengal, and if you add the number of the Hindu population in Bengal the minority I represent comes to about 27 millions, or more than one-third the size of the Muslim minority.

Sir Muhammad Shafi has in his speech twice referred to the services of his community in the Army. I do not think that that reference was necessary; however, I am glad to say that the part borne by the Hindus in the defence of the Empire is also substantial. I need not quote figures; it is unnecessary to go into them; but if for certain reasons recruitment had not been confined to certain classes, that part would have been larger.

I now lay two propositions before the sub-Committee. " Separate electorates were a minority right and were devised for the protection of minorities; they were not intended to be used as an instrument for the assertion of communal assendancy by a majority community." That is one proposition. The second proposition is that " separate electorates have proved futile as a protective measure, and in the future *régime* they will be positively harmful for minorities ".

All that has been said with regard to the interests of minorities by Sir Muhammad Shafi has my full agreement, but we differ in the view that he takes with regard to separate electorates. I think it is necessary to give to the members of this sub-Committee a short description of the history of separate electorates. In May last I put a question in my Provincial Council as to the time when separate electorates were first introduced into local bodies in the Punjab, and whether they were introduced as a result of any representation by an organised Muslim association. The answer given was that they were introduced in 1891, but not as a result of any Muslim representation by any organised association. In 1888 the idea occurred to the then Viceroy, three years after the National Congress was started, and then it probably filtered down to local officers. My inference from the answer given is that the idea was not put forward by any organised association, but was suggested by the local officers themselves.

From 1891, when they were first introduced in the Punjab, to the time when the announcement was made by Lord Minto with regard to the introduction of separate electorates in the Provincial Councils, no history is available; I have not been able to trace this history. But I invite the attention of the sub-Committee to the answer given by Lord Minto, which is reproduced on page 184, Vol. I, of the Report of the Simon Commission. I quote only two sentences with which I am concerned. Lord Minto said: " You point out that in many cases electoral bodies as now constituted cannot be expected to return a Muhammadan 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 ".

Now, Sir, the first point is covered by reservations. If Muhammadan seats were reserved there would be no risk that no Muhammadan would be returned. The second point does not apply to a tract in which the Muhammadans are in a majority. The Minto-Morley scheme was introduced in 1909, and the Reforms introduced by Lord Minto and Lord Morley remained in operation for about twelve years, from 1909 to 1920. During the whole of that period separate electorates were not introduced in the Punjab nor in Bengal, and that fact is admitted by my friend Sir Muhammad Shafi.

Now, when electoral schemes were sent up by the local governments of the two Provinces to Lord Minto—and in those days when centralisation of administration was in full force they must have been sent to Lord Morley also—why were they not returned to the local governments as involving a breach of a promise just made? They were not returned. I can see no other reason; I can draw no other inference than this, that the separate electorates promised by Lord Minto and Lord Morley were not intended for Provinces in which the Muslims were not in a minority. Then came the Lucknow Pact of 1916, and, as was admitted by Sir Muhammad Shafi, separate electorates were, in consequence of that Pact, introduced in the Punjab and also in Bengal. Well, of course, that Pact could not be ignored when the proposals——

Sir Muhammad Shafi: I did not admit anything of the kind.

Raja Narendra Nath: You did say so.

Sir Muhammad Shafi: " In consequence of that Pact "—I never said that.

Raja Narendra Nath: You may not have said " In consequence," but the Pact did introduce separate electorates which were not in existence before. That fact is admitted. Separate electorates were not introduced in the Punjab before, and separate electorates were not introduced into Bengal before, as Sir Muhammad Shafi said.

Mr. Ghuznavi: They were.

Raja Narendra Nath: Sir Muhammad Shafi said yesterday that they were not introduced.

Sir Muhammad Shafi: I did not say so.

Raja Narendra Nath: That is how I understood it. At any rate, they were not introduced in the Punjab. That is the fact. And why were they not introduced? I can see no other reason than the peculiarity of the conditions of the Province itself, which have not ceased to operate now.

Then came the Report of the Statutory Commission. The Commission ignored the history of the origins of separate electorates. They ignored in the Report that separate electorates were meant as a minority right and as a concession to a minority community. They made its removal contingent on the mutual consent of Hindus and Muhammadans in all Provinces, whether the Muhammadans in those Provinces were in a majority or in a minority. The climax has now been reached by the Despatch of the Government of India in which they proposed that an absolute majority should be conceded to Muslims in both these Provinces, and separate electorates continued all the same. Under these conditions, Sir, it has been impossible for us to bring about a settlement or to arrive at a settlement when the whole object of separate electorates has been, according to my view, misinterpreted and misapplied by these two documents to which I refer.

With regard to the second proposition, that separate electorates have proved futile, so far, as a protective measure for the minorities and, in the future *regime* they will be possibly harmful to minorities, I will advance arguments which may convince other minorities or not. I am not going to force my conclusions on other minorities. In the first place, whatever I say with regard to separate electorates being a useful institution, or not, in the interests of minorities does not apply to Europeans and Anglo-Indians. They form a separate, isolated, and segregated group by themselves. Although they are sympathetic to Indian aspirations, their culture is quite different, their mode of living is quite different from those of the majority of the people, but the fact that makes all the difference is their ignorance of the language. They cannot canvass a constituency consisting of Hindus, Muhammadans and Europeans. They are a very small community indeed, but it is not on account of their smallness that the necessity for a separate electorate exists in their case: it is because they form such a separate and isolated community, and it is because they cannot use the ordinary means of canvassing a joint electorate that they need separate electorates. Therefore whatever I say with regard to the utility or other view of separate electorates does not apply to them. I do not force my conclusions either on the Depressed Classes or on Christians or even on Muslims. I present my own view of the case, and I relate to you my own experience of what separate electorates have done. Separate electorates having been recognised for the Muslims, the Hindus automatically are returned by separate electorates. What is the result? In the last *régime*—I mean to say, with the official bloc being present there—I find that our voice is a voice in the wilderness. Whenever we are at issue with a community, either

the Sikhs or the Muslims, our representation is perfectly useless, but the voice has been raised and representations have been made because of the presence of the official bloc. The official bloc being there, and being substantial in numerical strength, each minority has found it worth its while to lay its case before the Council with the object of winning over the support of the official bloc. We have obtained that support at times, but very seldom; and so far, although the separate electorates have not proved harmful, they have proved, in my experience, absolutely futile. In the new *régime* which will be introduced, and in which large powers will be given to Provincial Councils, in which cabinets will exist which will exercise large and extensive powers, you will be faced with a very difficult problem—I mean to say, the minority communities will be faced. The Members of the Cabinet will naturally largely come from majority communities and not one of them will owe his seat in the Council to a vote of the Minority community. I consider it to be a fundamental right of citizenship to be able to exercise my vote in selecting representatives to the Council who have to decide my fate. As matters stand now, two-thirds of the Council is elected without my having any voice in the election of members, and now their responsibility, the responsibility of two-thirds of the elected members, is shared by the official bloc. When the official bloc disappears the sole responsibility will rest on those two-thirds of the members in whose election my community has had no voice.

Well, Sir, that is a condition which is highly undesirable, and to which I, as a member of a minority community, strongly object. I am deprived of a fundamental right, a right which is the primary right of citizenship, of selecting the representatives who have to decide my fate. I am not given that right. That is the view which was presented by me and by men of my party before the Simon Commission, but it has been entirely disregarded. It was put before His Excellency the Viceroy; it was put before His Excellency the Governor; but there is not a word about it in the Despatch. I am not discouraged, however; I am not despondent. I think I have right on my side, reason on my side, and I will go on putting my case again and again until the final answer comes.

Mr. Isaac Foot was kind enough, at one of the meetings of the sub-Committee, to put certain questions to the representatives of the Depressed Classes as to the view which the Depressed Classes took on the question of separate electorates. I hope he will extend that solicitude to me also. I hope that the British Delegations, as well as the other members of this Committee, will give their best consideration to what I have to ask on behalf of the minority which I represent.

Now, I am not the only person who entertains this view, and all Muhammadans do not differ from me. There are certain Muslims who take the same view of separate electorates as I do. The Maharaja of Mahmudabad and Sir Ali Imam are responsible Muslim

gentlemen. The one was a member of the Executive Council of Lucknow, in which the Muslims constitute a minority; the other was a member of the Executive Council of the Government of India. Sir Ali Imam was once a staunch advocate of separate electorates, but after actual experience of administration, after actual experience of how the separate electorates worked, he changed his view.

I want now to quote a passage from the Nehru Report at page 30:—

> " It is admitted by most people now that separate electorates are thoroughly bad and must be done away with. We find however that there has been a tendency amongst the Muslims to consider them as a ' valued privilege ', although a considerable section are prepared to give them up in consideration for some other things. Everybody knows that separate electorates are bad for the growth of a national spirit, but everybody perhaps does not realise equally well that separate electorates are still worse for a minority community. They make the majority wholly independent of the minority and its votes are usually hostile to it. Under separate electorates therefore, the chances are that the minority will always have to face a hostile majority, which can always, by sheer force of numbers, override the wishes of the minority. This effect of having separate electorates has already become obvious, although the presence of the third party confuses the issues. Separate electorates thus benefit the majority community. Extreme communalists flourish thereunder and the majority community, far from suffering, actually benefits by them. Separate electorates must therefore be discarded completely as a condition precedent to any rational system of representation. We can only have joint or mixed electorates."

Well, Sir, the learned members of the Statutory Commission no doubt made a careful study of the Nehru Report before issuing their Report but there is not a word in that Report about this argument, refuting it or meeting it.

I do not claim that there is a monopoly of wisdom and deep insight only with the Hindus. Our Muslim friends also realise the situation. We have received messages from them that they are prepared to give up separate electorates if substantial majorities were secured to them in the Punjab and Bengal; that if they were not altogether prepared to give them up, they would at any rate consider the proposals made by us to that effect. But, Sir, how are those absolute majorities to be made up? The case of Bengal is not so difficult. The case of the Punjab is much more difficult. I have nothing to say against the principle of weightage which was promised to our Muslim friends by Lord Minto and by Lord Morley, but I certainly protest against the proposal to play fast and loose with the principle of weightage when it suits the Muslim community but no weightage where it does not suit them. In Bengal the proposals that have been submitted by the Government of India

do not reduce the representation of any minority to below its numerical strength in the population. The Europeans, who form a very small minority, probably 1 per cent., will get more than 1 per cent. representation through the special constituencies which will return them. Assam is another case in which the Muslim minority is something like 29·8 per cent. in proportion, but so far the representation secured to the Muhammadans is slightly in excess of their numerical strength. In the case of the Punjab curious proposals have been submitted by the Government of India. Those proposals do not touch the representation of Sikhs, do not reduce, as far as I know, the weightage which has been given to them, but reduce the representation of Hindus to something less than their numerical strength in the population. Is this the way in which minority interests have to be safeguarded? Of the importance of safeguarding Muhammadan interests I am not unconscious.

But is the Hindu minority in the Punjab to be made an exception to the rule? Is this the way in which the promise of protecting the rights of minorities has to be redeemed: by reducing the representation of Hindus to something less than their numerical strength in the population? On this point, Sir, I dwelt on the first day, but I wish to make the point a little clearer. In the Punjab there are separate electorates for Sikhs and for Muslims; that is to say, there are electoral rolls in which only the Muslims are entered, and they may vote only for the Muslims. There are similar electoral rolls for the Sikhs in which only Sikhs are entered, and they may vote only for the Sikhs. In the third electoral roll, that of Hindus and others, people other than the Hindus are also entered; that is to say, Parsees, Indian Christians, Bhuddists and Jains. As far as Indian Christians are concerned separate provision has been made for them; but there is no separate provision for Jains and Bhuddists; they are considered as being part and parcel of the Hindu community; they are entered on the Hindu electoral roll, and they may be elected as members of the Council by the Hindu voters. They are Hindus; there is no reason to exclude them. It appears to me that the Punjab Government, when they showed that the Hindu population is nearly 31 per cent. of the total population, omitted the figures with regard to Jains and Bhuddists. If those figures are included, and I meant to include them when I said that the proportion was nearly 32 per cent., the proportion as a simpler matter of arithmetical calculation comes to 32 and not 31 per cent. Then in computing the seats, the Punjab Government is wrong in considering the Commerce seat to be a Hindu seat. The Industries seat is a Hindu seat but that has been removed.

Chairman: Might I remind the Committee that we are really not discussing the numerical proportions that are going to be settled.

Raja Narendra Nath: Very well.

Chairman: We are discussing whether that method will be adopted, but please do not take up time in discussing figures now.

Raja Narendra Nath: Very well. I simply wanted to explain matters on which I touched briefly last time. But I say it is at least the right of every minority community to secure representation according to its numerical strength; that right should not be refused to any community. We are not asking for any concession or weightage; we simply want representation according to our numerical strength. In order to secure an absolute majority for the Mussalmans, is it right that our representation should be reduced to something below our numerical strength? That is what the Despatch of the Government of India proposes, based upon the proposals of the Punjab Government.

Now, Sir, I hope I am not tiring your patience. In the beginning of my speech I referred to the concluding words of paragraph 231 of the Montagu-Chelmsford Report; those words are: That we can see no reason to set up communal representation for Muhammadans in any Province where they form a majority of the voters. This Report was written at a time when constituencies were not framed, and the voting strength of Mussalmans in each constituency was not known. I am afraid the Government of India have also fallen into a similar error. At page 29 they say that all these differences will be settled when the voting strength of each community approaches the numerical strength of the population. Well, with due reference to the Government of India, I humbly submit that this is an erroneous view. In the western part of the Punjab the Muhammadan population predominates; in the eastern part of the Punjab the Hindu population predominates. The case is just the reverse in Bengal: in eastern Bengal the Muhammadan is predominant, and in western Bengal the Hindu population is predominant. Now, Sir, whatever the franchise, even if the present franchise is maintained, in western Punjab the Muhammadan voters will predominate, while in eastern Punjab, even if adult suffrage were introduced, the Hindu voters would predominate. The population is not distributed equally in the Province either in the Punjab or in Bengal; in one part one community is to be found in a preponderant majority, while in another part it is a very small minority. In Kangra district, for instance—I mention this for the information of my friend Sir Muhammad Shafi, whatever may be the franchise the Muhammadan voters will not predominate; it is a purely Hindu district. In the same way, in say, Gurgaon district, or in some other districts in which the Hindu population predominates, the extension of the franchise would make no difference.

Sir, in connection with this I refer you to a statement prepared by the Punjab Government. I am sorry to say I have not got it with me; I did not bring it with me; but if this Committee cares to probe into the matter further, they can get that statement and have a look at it. That statement is called " E—Punjab 80." It was produced before the Simon Commission; it was prepared by the

local Government for the Commission. I have not got all the figures and I am not sure that what I have written exactly represents the figures given in that statement. But it will appear from a perusal of that statement that the number of districts in which the Muslim voters predominate is very nearly equal to the number of districts in which non-Muslim voters predominate. This is with the present franchise. When the franchise is extended, the disparity may be removed. It will be still further reduced; it may not become quite proportionate to the population, but still the disparity will be considerably reduced, and it will be possible for any franchise Committee to frame a scheme of constituencies and allotment of members to each constituency in such a way that the number of Hindus or non-Muslims returned by the majority of Hindu voters may be the same as the number of Muslim members returned by a majority of Muslim voters.

Mr. Fazl-ul-Haq: On a point of order, Sir. It would very much help us if we knew exactly what is the point that Raja Narendra Nath is going to make. If his main purpose is with regard to Bengal, I shall have something to say.

Raja Narendra Nath: I am first offering figures with regard to the Punjab.

Chairman: A point of order has been put to me and I must answer it. I think it is very difficult to understand what is the use of this. The detail would be most valuable for a Committee going into the whole details of the rearrangement of Punjab constituencies, but it is not in the least helpful to us who want to understand what your minds are upon the great ruling principles which must guide us in whatever position we may take up.

Raja Narendra Nath: I wish to point out, Sir, that under a system of joint electorates the Muhammadans will not suffer; on the other hand they will gain. That is the point I am going to prove; that they will gain under a system of joint electorates and not suffer. It is not that they will not enjoy full autonomy; they will enjoy full autonomy. That is what I am trying to illustrate and prove. I am afraid I shall have to go again into the figures.

Mr. Fazl-ul-Haq: On a point of order again, that would not help the Committee, because that is a piece of advice that has been offered us—

Raja Narendra Nath: I am not talking of Bengal. I am talking of the Punjab and confining myself to the Punjab.

Chairman: Unless speakers address themselves to the real point which is before us, I would like to warn you that you are not helping your case; you are prejudicing your own case; because what we want is that you should help us. We cannot follow all these detailed figures and it is not our business to do so. We will follow with the greatest appreciation an argument on whether communal registers help minorities or not; we shall be exceedingly grateful to have that addressed to us. But I have been watching the clock for the last 20 minutes without any point being made.

I assure you that the effect of that is to prejudice your case in our mind rather than to assist it.

Raja Narendra Nath: Very well, Sir. Then I have said enough about the separate electorates for minorities being prejudicial to their interests. I think it is a denial of the substantial right of citizenship which all minorities ought to have conceded to them, to deprive them of the right of voting in the election of members who are to decide their fate. That is the view which I take, and that is the view that has been taken by the framers of certain important constitutions. That is the view which is taken even by certain Muhammadan gentlemen, though it is not the view taken by the Muhammadan gentlemen present before you here.

Then, Sir, I myself think that to make the Governor the custodian of minority interests is not sufficient. So far as my minority is concerned, it wants a declaration of rights to be embodied in the constitution. Colonel Gidney referred to it; Sir Hubert Carr made some sort of reference to it; Dr. Ambedkar has sent in a note on it, though he has not had the opportunity of speaking. I am rather sorry to find that Sir Muhammad Shafi has made no reference to the point, though in the memorandum submitted by Dr. Shafa'at Ahmad, who is an important member of the Muslim community from the United Provinces, he laid great stress on certain substantial rights being recognised for minorities in the constitution. Well, Sir, I lay stress upon that, and I wish and hope that some sort of method will be adopted by this sub-Committee, by appointing a few men who have to draft such a declaration which will be put before the Committee and before the full Conference.

Members: That is right.

Raja Narendra Nath: As to the Services, to which reference was made by Sir Muhammad Shafi, I do not ask for that very general demand on which stress has been laid by other speakers; but I certainly wish to guard against the contingency of Services being made dependent on communities alone, and on communal positions alone. There ought to be something in the constitution laying down general principles in clear words as to the way in which recruitment has to be made. I do not favour the idea of not making some reservation to redress communal inequalities. A certain principle has been followed and adopted by the Government of India with regard to All-India Services. I desire that a similar rule may be adopted with regard to all other Services; because, after all, as is pointed out by the learned members of the Statutory Commission, most of the dispute and controversy and communal squabbling is about services and appointments. Some definite rule should be laid down about it, and should be laid down somewhere in the constitution, so as to give it a binding force even on the members of the Public Services Commission. Well, Sir, I am not going to say anything more.

Dr. Ambedkar: Mr. Chairman, I am sure you will readily agree that the task which has fallen upon me to represent the case of the

Depressed Classes is a heavy one. I think it is for the first time that the case of the Depressed Classes from the political point of view has come to be considered. The disabilities of the Depressed Classes were mentioned in almost every Despatch that was recorded by the Government of India in connection with the political advancement of the country; but the Despatches only mentioned the difficulties and never attempted to give any solution of those difficulties. The problem was just allowed to rest there. In view of that, and in view of other matters, namely, that in a Committee consisting of so many members we are only two to voice the grievances of 43 millions of people, and grievances which the Committee will agree are unparalleled by the case of any other community that exists in India, I submit that the task is really an enormous one, and I should have expected more latitude in the matter of time allowed to me for presenting this case. But I anticipated that probably such would be the fate that would befall me, as it did, of course, at the Plenary Session; and, in anticipation of that, I and my colleague, Rao Bahadur Srinivasan, thought it advisable to submit to this Conference a written memorandum giving in clear-cut language what the Depressed Classes desire by way of political safeguards in the future constitution of India. That memorandum has already been submitted and circulated among the members of this Committee, and I hope every one of them has received it. In view of this fact, that the case of the Depressed Classes is in the possession of the members of this Committee, I do not wish to ask indulgence from the Chairman for a larger period to present the case. I will therefore summarise, only to emphasize, what I have stated in the memorandum which is already in the hands of the members of the Committee.

Sir, the first observation that I will make is this, that although there are various minority communities in India which require political recognition, it has to be understood that the minorities are not on the same plane, that they differ from each other. They differ in the social standing which each minority occupies *vis-à-vis* the majority community. We have, for instance, the Parsee community, which is the smallest community in India, and yet, *vis-à-vis* its social standing with the majority community, it is probably the highest in order of precedence.

On the other hand, if you take the Depressed Classes, they are a minority which comes next to the great Muslim minority in India, and yet their social standard is lower than the social standard of ordinary human beings.

Again, if you take the minorities and classify them on the basis of social and political rights, you will find that there are certain minorities which are in enjoyment of social and political rights, and the fact that they are in a minority does not necessarily stand in the way of their full and free enjoyment of those civic rights. But if you take the case of the Depressed Classes, the position is totally different. They have in certain matters no rights, and,

where they have any, the majority community will not permit them to enjoy them.

My first submission to this Committee, then, is that it should realise that although, to use an illustration, the minorities are all in the same boat, yet the most important fact to remember is that they are not all in the same class in the same boat; some are travelling in " A " class, some in " B " class and some in " C ", and so on. I have not the slightest doubt in my mind that the Depressed Classes, though they are a minority and are to that extent in the same boat as other minorities, are not even in " C " or " D " class but are actually in the hold.

Starting from that point of view, I agree that, in some respects, the position of the Depressed Classes is similar to that of the other minorities in India. The Depressed Classes, along with the other minorities, fear that under any future constitution of India by which majority rule will be established—and there can be no shadow of doubt that that majority rule will be the rule of the orthodox Hindus—there is great danger of that majority with its orthodox Hindu beliefs and prejudices contravening the dictates of justice, equality and good conscience, there is a great danger that the minorities may be discriminated against either in legislation or administration or in the other public rights of citizenship, and therefore it is necessary to safeguard the position of the minorities in such a manner that the discrimination which is feared shall not take place.

From that point of view, however, what is asked is that the minorities shall have representation in the Legislatures and the Executive, that they shall have representation in the public services of the country, and that the constitution shall provide that there shall be imposed on the future legislatures of India, both Central and Provincial, certain limitations on their legislative power which will prevent the majorities from abusing their legislative power in such a manner as to enact laws which would create discrimination between one citizen and another. I say this circumstance—this danger of discrimination—is common to all minorities, and I, as a representative of the Depressed Classes, join with the demand which the other minorities have made in this regard.

Now, Sir, I will come to those circumstances which mark off the Depressed Classes and the other minority communities in India. I will at once say that the way in which the position of the Depressed Classes differs from the position of the other minority communities in India is this, that in the first place the Depressed Classes are not entitled, under present circumstances, to certain civic rights which the other minorities by law enjoy. In other words, in the existing situation the Depressed Classes suffer from what are called civic disabilities. I will give you just one or two illustrations, because I know I have not much time at my disposal.

Take the case of employment in the Police or in the Army. In the Government of India Act it is provided that no subject of His Majesty shall be deprived of the right of being employed in any

public service by reason of his caste, creed or colour. Having regard to that, it is obvious that every member of the Depressed Class community who is capable, who is in a position to satisfy the test laid down for employment in any public department, should have the right to enter that public department. But what do we find? We find this. If a Depressed Class man applies for service in the Police Department to-day, he is told point black by the executive officers of the Government that no member of the Depressed Classes can be employed in the Police service, because he is an untouchable person. In the case of the Military the same situation obtains. Up to 1892 practically the whole of the Madras Army and the whole of the Bombay Army consisted of members drawn from the Depressed Classes. All the great wars in the history of India have been fought with the help of sepoys drawn from the Depressed Classes, both in the Bombay Presidency and in Madras. Yet in 1892 a rule or regulation was made which debarred the Depressed Classes from entry into the military service, and even to-day, if you ask a question in the Legislative Council as to why this is done, the answer is that the bar of untouchability does create insuperable difficulties in the recruitment of these classes.

I am quite sure that this disability is as effective as if it was imposed by law, and the section in the Government of India Act, which says that all His Majesty's subjects shall have free entry into employment provided they are otherwise fit, is altogether set at naught.

I can cite many other cases. For instance, there is the difficulty the Depressed Classes find in getting themselves accommodated in public inn when they are travelling, the difficulty they find in being taken in an omnibus when travelling from one place to another, the difficulty they find in securing entry to public schools to which they have themselves contributed, the difficulty they find in drawing water from a well for the building of which they have paid taxes, and so on. But I need not go into all these cases. The one circumstance which distinguishes the position of the Depressed Classes from that of the other minorities is that they suffer from civic disabilities which are as effective as though they were imposed by law.

The second and, in my opinion, the most hideous distinction which marks the Depressed Classes is that the Depressed Classes are subject to social persecution unknown in any other part of the world. In that connection I want to read to the sub-Committee a small extract from the Report of a Committee appointed by the Government of Bombay in the year 1928 to investigate into the position of the Depressed Classes. That Committee tried to find out whether there were any impediments in the way of the Depressed Classes enjoying such rights as the law gave them in common with other citizens of the State.

This is what the Committee said:—

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we

fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.

"The second difficulty arises from the economic position in which the Depressed Classes are found to-day. The Depressed Classes have no economic independence in most parts of the Presidency.. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street.

"We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effects. It is the more dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

A third thing which the Depressed Classes fear more than any other community is that whatever representation they may be granted in the new legislature, they will always be in a very small minority, and consequently, having regard to the apathetic attitude

of the orthodox classes towards the Depressed Classes, there is always the danger of the interests of the Depressed Classes being neglected altogether, or some action taken which may ultimately prove to be prejudicial to their interests.

As against these special circumstances which affect the Depressed Classes, we propose the following safeguards. First of all, we want a fundamental right enacted in the constitution which will declare "untouchability" to be illegal for all public purposes. We must be emancipated, so to say, from this social curse before we can at all consent to enter into the constitution; and secondly, this fundamental right must also invalidate and nullify all such disabilities and all such discriminations as may have been made hitherto. Next, we want legislation against the social persecution to which I have drawn your attention just now, and for this we have provided in the document which we have submitted by certain clauses which are based upon an Act which now prevails in Burma. I need not go into that detail just for the moment. Then what we want is this, that liability of the executive officers of the Crown for acts of tyranny or oppression shall be made effective. To-day under sections 110 and 111 of the Government of India Act that liability is not real. And lastly, what we want is a right to appeal against acts of neglect or prejudice to the Central Government, and failing that, to the Secretary of State and a special Department in the Government of India to take charge of our welfare.

This is, in general, the case for the Depressed Classes, and the safeguards that they want. Let me just say a word or two as regards the most important of them—namely, their right to adequate representation in the legislature. Now, on the question of the granting of representation of the Depressed Classes, we are absolutely unanimous that that representation shall be by election and not by nomination. The system of nomination has produced, in the case of the Depressed Classes, results which we all say are abominable. The system has been abused in a manner in which it was never expected that it would be abused, and it has never given the Depressed Classes the real and independent representation which they must have as their safeguard. Under no circumstances, therefore, will the Depressed Classes accept representation by nomination.

As to the question of joint or separate electorates, our position is this—that if you give us adult universal suffrage the Depressed Classes, barring a short transitional period which they want for their organisation, will be prepared to accept joint electorates and reserved seats; but if you do not give us adult suffrage, then we must claim representation through separate electorates. That is our position.

Now regarding the question of the number of seats, it is not possible, of course, for us to state definitely what that number should be, except to state that we will not tolerate any invidious discrimination. We insist upon equality of treatment. But the

whole question, in my opinion, is entirely a relative question: it is a question that can be determined only in connection with, and by taking into account, the seats that will be allotted to the other minority communities; but I will make two observations in this connection. The first observation that I will make is this—that we, the Depressed Classes, demand a complete partition between ourselves and the Hindus. That is the first thing. We have been called Hindus for political purposes, but we have never been acknowledged socially by the Hindus as their brethren. They have taken to themselves all the political advantage which our numbers, which our voting strength, have given to them, but in return we have received nothing. All that we have received is a treatment which is worse than the treatment that they themselves have accorded to other communities whom they do not call Hindus. That must be the first thing, therefore, that we want done.

The second thing that I will say concerns the question of weightage. Now, this system—I will be plain—to my mind has been abused. I am not against the principle of weightage. I do not accept the principle that in all circumstances every minority must be confined to its population ratio. A minority may be so small that its population ratio may give a representation which may be wholly inadequate for the purpose of its protection. It may be a representation which may be of no consequence at all. If, therefore, you want to protect a minority adequately and really, then in certain circumstances the principle of weightage will have to be conceded. But the distribution of weightage must be subject to some uniform and intelligible principle. In our opinion weightage is to be conceded because a minority is weak, either in numbers, or because its social standing is low, or its educational standing is backward as compared with others, or because its economic strength is not sufficient to place it on a fighting par with other communities.

Members: Quite right.

Dr. Ambedkar: But I cannot understand, for instance, how weightage can be allowed on the ground of political importance, or loyalty, or services rendered either to the Empire or to the British Government. I think if we adopt that principle, we shall land ourselves in very difficult circumstances from which it will be difficult to extricate ourselves.

Regarding the question of the representation of the Depressed Classes in the Central Legislature. If you have again adult suffrage for the election of members of the Central Legislature, then, of course, the Depressed Classes will claim separate representation in the Legislature, such number of seats being allotted to them in conjunction with the seats allotted to other minorities. But if your representation is to be by a suffrage which is higher or much higher, based on property, and so much higher that the Depressed Classes will probably be entirely left out, then I am afraid the Depressed Classes will have to claim indirect election to the Central Legislature, carried on by electoral colleges composed of members of the

Depressed Classes, in the Provincial Legislature, in municipalities, and in district local boards. That is all that I have to say so far as the Depressed Classes are concerned.

Having said all that I need say let me add one thing in conclusion: that this whole question of minority representation is really the crux of the whole situation, and if the majority community desire that all minorities should associate with them in having or in claiming, a constitution which will give India what they call Dominion Status, or what we prefer to call Government by the people, for the people and in the name of the people, then I am afraid that the majority community must see to it that all fears of the minorities are set at rest. Otherwise it may not be possible for us to take what I do not conceal from myself is the risk that most of us are taking in claiming Dominion Status.

(*The sub-Committee adjourned at* 1 *p.m. and resumed at* 10 *p.m.*)

Mrs. Subbarayan: Mr. Chairman, before I proceed to speak on the Women's question, may I on behalf of my colleague Begum Shah Nawaz and myself thank you for giving us this opportunity to explain our views on this very important subject to this sub-Committee. I should like also to say that we know time is of great value at our meetings, and I shall try to be very brief and not to take up more time than is absolutely necessary.

Sir, my colleague and I have circulated a memorandum to this sub-Committee dealing with the political status of women under the new constitution in India. In that memorandum we ask that there should be inserted in the new constitution, or in any declaration of rights that may be attached to it, a clause to the effect that sex shall be no disqualification for serving India, or, more broadly stated, that all citizens of India possess equal civic rights. We strongly urge that such a declaration should be incorporated in the new constitution.

We have also asked in that memorandum that to some extent, and for a limited time only, women shall be considered as a "special interest." I do not mean to imply that the women's question is identical with that of the minorities or of the special interests; in many ways it is different, for it cuts across all races, creeds and classes; but in some respects it is not entirely dissimilar. The women of India stand out as a section of society which educationally, economically and politically requires special attention. Educationally, because women literates amount to only 2 per cent. of the population over five years of age, whereas men literates form 14·4 per cent. Economically, very few women own property and the laws of inheritance are not quite fair to them. Politically their voting strength is very small. The women electors amount to only 0·6 per cent. of the adult female population, while men amount to 10·4 per cent. of the adult male population.

Moreover, in the whole of India there have not been even half a dozen women in the Provincial Legislatures, and all of them have been nominated by government; and there have been no

women in the Central Legislature. These are some of our reasons for asking you to consider women as special interests, and to grant them safeguards as regards their representation in the Legislatures in the form of reserved seats.

We also believe, Sir, that women have an important contribution to make to the political life of a nation and we feel convinced that that contribution has been felt and appreciated in the countries in which women have already obtained considerable political power. We want that contribution to be made also in India, and we want it most especially in the first few vital years of India's life under the new constitution. Women can make that contribution partly through the polling booths if they are given sufficient voting strength, but it is essential that they should be present in the Legislatures, and in sufficient strength, so as to make their influence felt and their voices heard.

We think that the best intentioned Legislature in the world cannot reflect the women's view unless women are actually members of that Legislature; but, while asking for temporary reservation of seats for women, we are aware that women have now the right to stand in open election for the Legislatures. We do not desire that right to be taken away from them. We also agree that it is possible and desirable for women so to stand, but as long as the public is unaccustomed to the idea of women in active political life it will be extremely difficult for any woman to win in an open election.

We think, Sir, that the phrase " A fair field and no favour " is an illusory one at the present time, because convention and habit in India, as in all other countries, are inevitably opposed at first to the idea of women in active political life, and consequently at first there will not be real equality of opportunity for women in open elections. We are entirely in favour of a fair field and no favour after a time, when the public mind is accustomed to women in public life, but we think the new constitution should provide for a short period of reservation of seats for women, until the public mind shall be so accustomed.

I should like to make one point in this connection. We do not make this suggestion without some support. The Indian Central Committee recommended it. A deputation of distinguished Indian ladies who appeared before the Simon Commission at Lucknow strongly urged it. We ourselves have consulted several Indian ladies, both in India and in London, who have taken a keen interest in social and political work in India, and we have their support too as regards the subject of reservation; otherwise we should have been slow to put forward this proposal.

I shall take only a couple of minutes more. With regard to the form of reservation of seats, we suggest five per cent. of the seats in all the Legislatures should be reserved for women. As to the method of election, this requires very careful examination, but after bestowing much thought on it we have decided to put forward one

proposal which we hope will obviate the usual difficulties attendant on election to reserved seats. We suggest that these seats shall be filled by co-option, by the legislative bodies voting by proportional representation as soon as these legislative bodies have themselves been elected. I ask the sub-Committee to give their very earnest consideration to this proposal, which is to our mind the only feasible and practicable one. We think this method will obviate the main practical difficulty inevitable in any system of election to reserved seats in a general election, namely that of allocating a small number of reserved seats to a Province which is divided into many electoral areas. This co-option method should also avoid the disturbance of the other reservations which will have been already decided. By it, moreover, the women co-opted to the Legislatures will broadly represent the general electorate, but their election will be carried out without the introduction of any communal question.

Here, Sir, I should like to emphasise the fact that until now the communal question has not entered the women's movement, and it is our earnest wish that it shall never enter it. Consequently we are extremely anxious that the reservation of seats for women shall not specify reservation of seats for women of different communities, but that the elections to these seats should be made, as I have already said, by the Legislatures voting by proportional representation.

We suggest, Sir, that the reservation of seats for women should disappear after two or three elections, or, if a time limit should be stated, after ten or fifteen years. We are not quite sure what the life of a Legislative Council will be, whether five or three years, and that is why I have suggested ten or fifteen years; we think the reservation should last for three elections. By that time the precedent for women in legislative bodies will be firmly established and their value felt, and we hope also by that time the franchise will be so broadened and education so advanced that it will not be necessary for women to have any safeguards.

Finally, Sir, we do most earnestly appeal to this sub-Committee to regard this reservation of seats for women as a very important matter, as it affects closely nearly half the population of India. In addition to the advantages which I have already mentioned, it will be an educative factor of no small value. We believe, as I said before, that women have their special contribution to make to politics. We believe they need experience in public life and above all we believe that the public need the experience of women. If by the reservation of seats for women we can achieve these three objects, we shall accomplish a far-reaching reform.

Sir Chimanlal Setalvad: I wish to make it clear at the outset that some of us here should not be taken as represented by the views that Dr. Moonje has expressed in this meeting or by any views and opinions that may have been expressed by the Hindu Mahasabha or any other organisation in India. Some of us here belong to a political party which is not communal; we do not belong to any communal organisation at all, and we are prepared—and we have

always done so—to view all these questions that arise purely from the Indian and the National point of view.

I was sorry, Mr. Prime Minister, to find in some of the speeches already made a certain amount of heat developed, but I would beseech my Muslim friends on the one hand and my Hindu friends on the other not to be exasperated by or to become impatient at the utterances of any particular persons or any particular organisations. I wish you to preserve a calm atmosphere when you are engaged on such a momentous question as you are engaged on here to-day, and calmly and dispassionately consider the issues which have arisen, so as to arrive at a solution which may bring contentment, peace and prosperity to our land.

I beseech you to remember, whether you be Hindus or Mussalmans or whether you belong to any other community, that you are the children of the soil of India. You have to live together—not only this generation, but future generations yet to come—and you can only build up the prosperity of your country, you can only manage successfully your self-government, if you here and now build on mutual trust and confidence and concord the real nation of India.

Mr. Prime Minister, I do not think any right thinking person can deny that it is necessary in any scheme of self-government that we are now devising to take adequate measures to make the minorities feel quite safe. We ought so to devise methods as to make every minority, be they Mussalmans, be they Depressed Classes, be they Anglo-Indians or Europeans, feel they have got their proper place in the constitution, and that their rights and their liberties will remain unaffected.

From that point of view, Sir, it will be necessary to devise provisions and define fundamental rights by which their religion, education, culture and things of that character can be safeguarded. You will also certainly have to provide against any legislation that may prejudicially affect the religion, or the social customs based on religion, of any community. To my mind it will not be difficult to provide safeguards, properly worded, on a matter of this character.

Nor do I think it should be difficult for us to arrive at a satisfactory conclusion on some of the points on which our Muslim friends are laying stress—for instance, the question of the separation of Sind, the question of the North West Frontier Province, the question of the Cabinet and the question of the Services. On all those points, Sir, I think it is not at all difficult to frame proper formulas and proper resolutions which will be satisfactory to all minorities; and, once we arrive at a stage when we can proceed to deal with those points specifically, I for one and some of my friends here will be able to produce formulas and resolutions which I am sure my Muslim friends are fully aware of and which I am sure they will agree to with satisfaction.

If then, Sir, all these proper provisions and safeguards for religion, for culture, for the Cabinet, for the Services and the rest

of it are made, as I think they should be made, I submit that a great part of the apprehensions that any minority community may entertain at present should be removed and will be removed, and I beseech my Muslim friends as well as the other minorities—I am not at present dealing with special cases like those of the Depressed Classes, the Anglo-Indians or the Europeans—to consider whether they, the other bigger minorities, if they get all those safeguards that I have named, properly worded and properly shaped to meet the end we have in view, will not minimise the estimate that they now have of their apprehensions. Will they not then consider—I am only asking them to consider—whether it would not, in those circumstances, be to their interest to come into the joint electorates?

Mr. Prime Minister, I and some of us have been firm believers all the time in joint electorates, not because the joint electorates will confer advantage or disadvantage on one community or the other, but because we believe, and have always believed, that the method of joint electorates is the right method for building up a nation in India. Otherwise, what happens under separate electorates is this, that the member who has been elected merely by the Hindu votes, and has not to seek the suffrage of the Muslim votes, naturally does not care for the interests of the Muslim community. *Vice versâ*, the Muslim candidate who gets in only by the suffrages of his own community and has not to nurse the Hindu voters naturally becomes less mindful of the interests of the other community. All those disadvantages will disappear if you have joint electorates, under which every candidate has to seek the suffrage of all the communities. He will then be bound to look after the interests of all his constituents, Hindu and Muhammadan and every other community. I therefore beseech my Muslim friends to consider whether it may not after all be wise in the general interest of India to come into joint electorates. Certainly for their protection I am quite willing that there should be reservation of seats, so that they may be secure about their proportion in the Legislatures. But supposing they are not prepared to take that step, however desirable it may be from my point of view and from the point of view of those who take the same view, may I implore them to consider whether they will not, if not wholly accept the general electorates, at least accept the principle of general electorates in some modified form or another, so that a beginning may be made in that direction. What I mean is this, by way of illustration—some scheme by which a major portion of the seats allotted to them may be competed for in the separate electorates, but that a percentage, even a little percentage, may be competed for in the general electorates. That would make a beginning; that would give them the experience, after some years, as to how the system works; and then they will be more prone to come into the joint electorates. As a further illustration I would mention the scheme that Maulana Muhammad Ali once suggested, namely, that the Muhammadan candidate, for instance, should obtain a certain percentage of the votes of his community, and then the rest from the other community; and *vice versâ*. If you do some such planting

you will create the beginning of coming into the joint electorates, and if you do that I am sure that all parties will be satisfied, and everyone will feel that a beginning has been made which is bound to lead ultimately to very good results.

If my Muslim friends are agreeable to come into some such scheme, then it should not be difficult to adjust the numerical proportion controversy. Some of us here, and I think some of the people in India too, will not be at all averse from the Muslims in the Provinces in which they are in a minority retaining their present weightage, and with regard to the Punjab and Bengal, where they are in a majority, some proper adjustment may be arrived at which will give to them the majority which they have in those Provinces, and also adjust in some reasonable manner the claims of the Sikhs and Hindus. I therefore appeal, Sir, to my Muslim friends to consider whether in these circumstances they will not consider joint electorates either wholly or in some modified form that may commend itself to them. I quite see that however much I personally, and my friends, want joint electorates, as I have said, on principle, we cannot shut our eyes to the fact that if we fail to persuade our Muslim brethren, we cannot force them to accept our view. If they, after considering the whole situation in the manner in which I have ventured to put it before them, still hold that in their interests, however mistaken I may consider their view to be, they can only safeguard their position properly by the separate electorates for which they are asking, let them have them, because, as I have said, our object here is to devise a constitution which will please everybody, which will induce all communities to work it with enthusiasm and to work it in a proper manner. Therefore my view is that whatever views I may hold or we may hold as regards the comparative merits of the general electorates or the separate electorates, if the Muslims say, " No, we still want separate electorates ", I only ask them to consider what I have said, and if after that consideration they think they should have separate electorates then I, for one, and some of us, will not stand in the way. And if separate electorates are to come, then I again put it to all here: let us hush all controversy, put an end to all bickerings and quarrellings about numbers, about one per cent. here and two per cent. there in one Province or another, and in a spirit of give and take, in a spirit of mutual concession, agree here and now to some rough and ready method by which that question can be solved. One method that suggests itself to me—again, no doubt, a rough and ready method—is this. If separate electorates are to be there accept the numerical figures for the various provinces which the Government of India, after consideration, have recommended. Let all sides accept that solution. I appeal to my Sikh friends, I appeal to my Hindu friends, do not haggle and quarrel about one per cent. here and two per cent. there. After all, your community—the Sikh community, the Hindu community, the Muslim community—is each a community of importance. You have produced among you men of great intelligence, men of great status; and surely, whether you are two per cent. more or two per cent. less,

each one will be able to hold its own in the administration of the country.

Therefore I put it to you, Sir, whether the solution may not be found in the manner I have described. As I have said, and again repeat, although I disapprove of separate electorates, if our Muslim brethren want separate electorates, let them have them, and let them accept the numerical figures given by the Government of India.

That, to my mind, is the shortest way of putting an end to this controversy. All I beg of you is this: let this wretched question be put out of the way; let us all stand shoulder to shoulder and get the self-government that we want for India. We shall not get it if we go on bickering and quarrelling about five per cent. here and two per cent. there, and this concession there, and this concession here, and this pulling here and this pulling there. Let every safeguard be provided, which can easily be provided, with regard to the Cabinet and the Services. That can be agreed upon, Mr. Prime Minister, if we agree on everything else, in half an hour; and if my Muslim brethren and my Sikh brethren and my Hindu brethren in the Punjab and Bengal will agree to the suggestion I have made, Sir, we can here and now put an end to this controversy, and, as I say, set to work on the difficult main question that is before us, and which we have, until now, not really tackled.

Sir Ahmad Said Khan: It is not without a feeling of humiliation that I rise to speak. In my opinion the honourable position for us would have been to come before you, Sir, with communal differences settled; but as it is now, we have got to face the facts and to make an endeavour to tackle them as best we can. The Muslim point of view was put forward by Sir Muhammad Shafi, and I have nothing to add to it. The few observations that I wish to make are simply with a view to helping the new constitution which we are going to evolve. I will try to take a detached view of the situation. Out of the discussions that we have heard here two things have come out very clearly. One is that the minorities are insistent on having their safeguards. I do not read the speeches of the various representatives of the minorities in the same light as my friend Dr. Moonje did, and I think that all the representatives of the various minorities in the most unequivocal terms have declared themselves in favour of safeguards. Even the representative of the Indian Christian minority, my friend Mr. Paul, in spite of his leanings towards nationalism, could not help saying that if the poisonous cup of safeguards is going to be prepared for other minorities, then his community would also like to have the same. The other fact which is very clear to me is this, that if we wish that the new constitution may succeed in India, then it is essential for the success of the new constitution that a feeling of security should be created in the minds of the minorities. I know, Sir, it is said that some of the safeguards, particularly the separate electorate, is the negation of democracy, that it is destructive of the spirit of nationalism, that it has caused all the communal troubles. To

me it looks that these safeguards, including separate electorates, are not the cause but the outcome and result of communal misgivings: they are not the creators but the creatures of communal mistrust. Therefore, as long as that mistrust and those misgivings are there, I do not think that the minorities will be willing to surrender these rights. Of course, when these misgivings shall have been replaced by trust, they will be quite willing to give up those rights; but we know, Sir, that trust cannot be created to order, it must come from within. We cannot implant it, it must grow; and therefore I am afraid we shall have to await the time when the minorities become trustful of the majority community in India.

I am fully alive to the disadvantages of the separate electorates. I am very much obliged to the last speaker for his speech, and for the tone in which he dealt with the whole subject. I am grateful to him for the way in which he considered the question of the minorities, and I am fully aware of the strong objections that there are to separate electorates; but, Sir, there is nothing like typical democracy, and it does not follow that because a certain constitution is good for one country it will necessarily be good for another country. In India, as long as communal feelings are as they are, I think that we shall have to have some safeguards. After all, it is not only that we are to convince those of us who have come here, but the very important thing is to satisfy those who have been left behind in India, and for this reason I think that we should not insist on the abolition of communal representation at this stage, because I feel that the more we insist on the abolition of the separate electorate the more we excite the misgiving of those who enjoy it and consequently stiffer is getting their attitude. I think, therefore, that it will be desirable to leave it as it is, with a definite clause in the constitution that if any minority at any stage wish to surrender this right they can do so by passing a resolution in their legislature supported by two thirds of that minority, and then the joint electorate will at once be introduced; because I for one have strong hopes that, as suggested by Sir Chimanlal Setalvad, if we are going to embody various safeguards in our constitutions, then the minorities will soon realise that there is hardly any need to have a separate electorate. After all, I believe that the separate electorates are not the goal but the means to achieve the goal; but if they have the safeguards embodied in the constitution, when they have seen the working of the constitution for a few years, and find that it gives them satisfaction, I hope that they will then be prepared to surrender their safeguards. But I beg my Hindu friends, as well as my British fellow Delegates, not to insist on such minorities as wish to have separate electorates to give it up, because the more you insist the more those minorities feel that there is something wrong, and the more their mistrust is excited.

Sardar Ujjal Singh: I am very grateful to you, Mr. Chairman, for having given me an opportunity after all to make a few observations. I shall be as brief as possible. I do realise that we are

face to face with realities now, and that it is no use talking platitudes. We do loudly talk of nationalism, but in the same breath we all talk in terms of our own communities. If we were to think, speak and act in matters political, of nationalism alone and of the good of our country, then I think we should not have talked of communalism in the same breath, and we should not have heard of that scramble for power on the part of some communities, and that nervousness on the part of other communities as regards protecting their interests. Sir, if we are to assess the value of separate and joint electorates from the standpoint as to what method can best serve the interests of a particular community, I can surely say that separate electorates will serve the purpose better. But if we consider the question from a national point of view and the interests of India as a whole, joint electorates are decidedly preferable. But we must cease judging the results of joint electorates by the standard of losses and gains to various communities. Until we cease thinking in terms of various communities the good that we expect of joint electorates will never come about.

I certainly believe that unless that mentality changes, joint electorates are not going to carry us very much further. But unfortunately that time does not seem to have arrived. If and when that time does arrive I can assure you that the Sikh community will not be found wanting in making that sacrifice. I do realise that the minorities have got to make tremendous sacrifices in giving up separate electorates, and the smaller the minority the greater the sacrifice. In that respect I fully realise that with the introduction of joint electorates, in the Punjab at any rate, the Sikhs being the smallest minority out of the three communities will have to make a tremendous sacrifice.

For a fuller appreciation of the demands of the Sikh community, Sir, I would only refer to the times when the Minto-Morley reforms were introduced. The Sikhs, fortunately or unfortunately, did not know the art of agitation, and their interests were entirely ignored. The result was that in two elections after the Minto-Morley reforms, no Sikh was returned and in one election only one Sikh was returned. That created a great nervousness in the minds of the Sikh community. My honourable friend Sir Muhammad Shafi pointed out that the Sikh community never put forward a claim for one-third representation, they only wanted a little excess over their numerical strength. I would only refer to the memorandum sent by the Honourable Sir Sunder Singh Majithia as a member of the old Imperial Council in 1916, in which he definitely placed the claims of the Sikh community, and said this: " In order that such representation may be adequate and effective, and consistent with their position and importance, the Sikhs claim that a one-third share in all seats and appointments in the Punjab is their just share and should be secured to them as their absolute minimum."

Sir, in 1916, as we all know, a pact was arrived at by the Hindus and the Muslims in which the Sikhs did not take part; and in their absence certain figures were fixed for representation in the various

provincial legislative councils. But the case of the Sikh community was entirely ignored. My friend Sir Muhammad Shafi has pointed out that those figures were not the result of a pact, but were granted to them as the result of the Minto-Morley reforms. I do not know whether this statement is correct, but I have before me the Montford Report. The authors of that joint report say: " We are not aware on what basis, other than that of negotiation, the figures were arrived at." They point out that the Muslims were given a higher percentage than their numerical strength in various Provinces. They say: We do not know on what basis those figures were arrived at excepting that of negotiation.

Sir Muhammad Shafi: If I may give a personal explanation, Sardar Ujjal Singh has forgotten that I did not say anything about figures. What I said was that weightage to the Mussalmans in the minority Provinces had been granted by the Minto-Morley reforms.

Sardar Ujjal Singh: That may be, but not to the extent to which it was arrived at in the Lucknow Pact. Then, Sir, the only community that protested against the Lucknow Pact was the Sikh community. It was accepted by the Mussalmans and the Hindus. In 1918 Sir Fazl-i-Husain, who was then a member of the Punjab Council, moved a resolution that that pact ought to form the basis of representation, and the Muhammadans ought to be given seats according to the proportions given in that pact. To that resolution the Sikh member of the Legislative Council moved an amendment that the representation for the Sikh community ought to be fixed at one-third. That clearly showed that the Sikhs had been protesting against the proportions fixed in the Lucknow Pact since that time.

Then came the Montford Report. In that report the authors stated that they were convinced of the justice of the Sikh claims, and they promised to the Sikh community the same concessions which were granted to the Mussalmans in their minority Provinces. Now those concessions, Sir, the Sikhs interpreted as the same amount of representation, and, with that point of view, they have always urged that, as the Muslim minorities in various Provinces like Bihar and Orissa, where they form less than 11 per cent. of the population, have got a representation of about 16 per cent., on that basis the Sikhs were entitled to a representation of about 30 per cent. in the Punjab Legislative Council.

Then, Sir, the Punjab Government, as a matter of fact in 1918, while recommending certain figures for representation of the Sikh community in the Punjab Council, referred to the Sikhs in certain terms in their letter, No. 21220, dated 23rd November, 1918, to the Government of India. They stated that the Sikhs influential position in the Province, which is based partly on historical and political factors, partly on their military prestige, partly on their high educational level and economic importance in the Central and Colony districts, entitles them to a considerably greater degree of representation than is indicated by numbers alone; and then, later

on, they suggested a representation of about 20 per cent. for the Sikhs.

Now, Sir, even that representation of 20 per cent., which was recommended by the Punjab Government, was not allowed to us. We represented our case here in England; I had the honour of being a member of that Sikh deputation; we saw the President of the joint Parliamentary Committee and the Secretary of State. We were assured that the Sikhs had a just grievance in being accorded inferior treatment, and in not being recognised on the same basis as the Muslim minorities were, while their importance was fully recognised; but they said that at the time of revision those claims would be fully considered. Now, Sir, the time for that revision has come, but now, instead of the just claims of the Sikhs being recognised, we have been asked, as shown by Government of India, Despatches, not to insist on more representation, but that the Muslim community, which was satisfied under the Lucknow Pact, and which had a fair share of representation, ought to be given higher representation.

I do not grudge what the Muslims might get in Provinces where they are in a minority; I fully appreciate their point of view. But, Sir, we must realise that now we are going to have autonomous Provinces, Legislative Councils with much wider powers, the official bloc being removed. Under those circumstances it is the minority and the community like the Sikhs which has a great stake in the Province that requires to be protected and requires to have higher representation than it at present enjoys.

Sir Muhammad Shafi as a matter of fact gave a very cogent reason for the weightage and for the recognition of the Muslim minority in other Provinces. I quite appreciate those reasons, but I want him also to recognise the force of those very reasons with regard to a community which is not lacking in those qualities. The Sikhs have great historical importance. The part played by the Sikh community in defence is second to none. As a matter of fact during the war, when recruitment was open to all communities and to all classes, no community being debarred from being enlisted in the Army, the Sikhs supplied a proportion of recruits much higher than any other community in India. Being 11 per cent. of the population of the Punjab, they supplied 90,000 recruits, besides 30,000 in the Army at that time. That proportion comes to 13 per cent. of the total number of recruits throughout India; whereas the big Muslim community with 55 per cent. of the population in the Punjab supplied 25 per cent. of recruits to the Army. Over and above that, Sir, the Sikhs have a great stake in the country. They pay revenue to the extent of 25 per cent. Out of a total land revenue of Rs. 44 millions of the Punjab, the Sikhs pay Rs. 11,459,000. That comes to over 25 per cent. of the land revenue alone. But if you take into consideration the canal charges, because the Sikhs are greatly concentrated in the Colony districts, then their share of revenue and canal charges comes to as much as

40 per cent. Besides, they have got a large number of shrines with big landed estates, scattered throughout the Province. With such stakes in the Province, with such historical and economic importance, and with such a splendid record of service in the cause of the Empire, I beg of you to consider their claims and to give to the Sikhs the protection which is their due. Sir, I have taken up more time, but I cannot do full justice to the subject in ten minutes.

Chairman: Fifteen.

Sardar Ujjal Singh: Sir, one argument which was advanced was that the Muslim community wants to be in the same position of influence in some provinces as the Hindus are in six Provinces. I concede to them that they have a plausible claim to have the same position of influence over the Hindus. They have a plausible claim to have Sind separated on that ground; they have a claim for the North West Frontier; they may have a claim for Bengal. But the Sikhs are nowhere in a majority; they are only concentrated in the Punjab. Even if Muslims have 46 per cent. representation in the Punjab, they remain a majority over the Hindus, but not necessarily over the Sikhs and Hindus combined. The Sikhs do not want a position to rule or the position of being a majority in a Province, but to be in a position to make an effective appeal to another minority in case, which God forbid, the majority group should ill-treat them. We only want to be in that position. I beg of Muslim brethren to concede to us the same concessions and the same protection which they seek from the Hindu majority.

Sir, I believe we all realise that the situation in India is a very grave one, and that we must come to an understanding. We must follow that golden rule: Do unto other what you wish others to do unto you. Unless we tackle this problem in that spirit it will be impossible for us to arrive at any agreement. I beg of you majorities, the Hindu majority and the Muslim majority, to tackle this problem in that spirit. I beg of the Muslim majority to concede the same protection and the same concessions to the Sikh minority which they are seeking for themselves from the Hindu majority. I beg of the Hindu majority not to sacrifice the interests of the Sikh community in their zeal for joint electorates. And I beg of the British delegates not to forsake a community which has always stood by the Empire in times of need.

Chairman: Now let us see where we are. I have two names on the paper in front of me: Mr. Sastri and Sir P. C. Mitter. I do not think we can finish to-night, so that we shall require to have another meeting, and the question is now this. I think you all agree with me that no profit is to be derived from a reiteration of claims. They have been put before us with extraordinary force by all the speakers who have represented communities. The problem that we have got to face is how these claims are to be met, and that is what we ought to concentrate our thoughts upon: separate electorates, numbered and divided between the various communities;

joint electorates with reserved seats. But those who talk about reserved seats with joint electorates must remember that they are not at all avoiding the community problem. Then all sorts of other questions come up. But what we shall have to do is to bend our energies to see whether we can come to an agreed scheme. As to protection of minorities in a general way, I do not think you need bother about that, because I believe that it will be the full intention of the Parliament of this country, whatever form it may adopt, to strive its utmost to give protection to minorities. So that if you assume that, you can mention it, but you need not elaborate it. Assume that that is our intention and that the only problem is the practical problem of how to do it.

A declaration of rights has been mentioned. Well, there are declarations of rights in various constitutions, and I would beg my friends who are asking for a declaration of rights to study its effects in those places where minorities have been told to trust to the efficacy of a declaration of rights. I am closing my mind against nothing, but we would all be better if, sitting round this table, we would regard ourselves as co-operating members, studying things out in their details.

Supposing we have a meeting on Monday. I again beg of you to try in the interval to meet each other. I have begged my Sikh friends days and weeks ago to try and negotiate with the Mussalmans; I have begged the Mussalmans to try and negotiate with the Hindus. What we would like—and I think I am speaking for all the British representatives here—would be that we should not have to interfere in your affairs. There is a little bit of humiliation in it—just a little bit of humiliation in it, and if you could settle it amongst yourselves in the magnificent spirit which has been expressed by our friend over there, then that is the best kind of arrangement that could be come to. I think one other meeting will enable us to see whether you can agree amongst yourselves; and then, if you cannot agree amongst yourselves as to a scheme, we shall have to take into consideration all that you have said and all your points, and see how we are going to meet them as abundantly as we possibly can, and yet consistently with a self-governing constitution for India. And, do believe me, my friends, that that distinction is not a distinction merely of words; it is a distinction of substance, a very serious distinction of substance. You cannot have it, not only both ways but half-a-dozen ways, and perhaps a little conversation together at the week-end might help to clear those problems of substance out of the way.

Now I felt I had to say that, because to go on merely making claims, stating historical facts, and so on, is not going to help us a bit. As I say, I have the names of two speakers here. I am quite willing to take them before we adjourn to-night, or, if you prefer, I will take them on Monday.

(The sub-Committee adjourned at 11.10 p.m.)

PROCEEDINGS OF THE FOURTH MEETING OF SUB-COMMITTEE No. III (MINORITIES) HELD ON JANUARY 6TH, 1931, AT 3 P.M.

Chairman: I am sorry to say that I must leave as something has occurred to-day which demands my presence elsewhere. I am particularly sorry because we left this Committee at an interesting point the last time we met, when I threw out the suggestion that the chief communities, in any event, could meet and see if they could come to an agreement in the light and in the spirit of the later speeches at the last meeting. I understand that the Mussalman delegation is prepared to make a suggestion. Sir Muhammad Shafi does not wish to make a speech, but only just to make a brief announcement. If that were done, then we might proceed with our deliberations in the light of that announcement. I think if the view of the Hindu Mahasabha is given it ought to be given in such a way that it may be considered in that light, and if Sir Muhammad Shafi would make his statement and then allow the discussion to go on, I would hope that Dr. Moonje would say what he has got to say pretty early on, because it is no good going on merely debating and arguing. The question that is interesting those at this corner of the table is, can there be an agreement, can there be a settlement? If not, we shall have to consider the problem on the assumption that there will be no settlement. If there is a settlement, we will consider the problem on the assumption that there is to be a settlement.

I hope you will excuse me if I slip out. I am so sorry that I must leave. The Attorney General will take my place.

(*The Prime Minister here vacated the Chair, which was taken by Sir William Jowitt.*)

Sir Muhammad Shafi: Mr. Chairman, on behalf of the Mussalman group I desire in the first place to express our sincere appreciation of the patriotic spirit in which Sir Chimanlal Setalvad made certain suggestions in his speech the other day. We are convinced that what led him to deliver that speech and to make those proposals was a realisation of the fact, emphasised by me in my speech the other day, that without Hindu-Muslim settlement there is no hope of realising the aims we all have in view.

I will go at once to the point. My friend's suggestion, as I understood it, was that if guarantees are embodied in the constitution by a declaration of rights with regard to religion, education, social customs founded on religion and so on, if Sind is separated, if reforms are granted to the North West Frontier Province and if suitable formulæ are agreed upon with reference to the Cabinet and the Services, then he would appeal to us to come into joint electorates, with a reservation recognising our majority in the Punjab and Bengal either with or without Mr. Muhammad Ali's formula. That I understood to be the main proposal put forward by my friend. He appealed to us to come into joint electorates as a result of his deep-rooted conviction, and the conviction of some of his friends, that joint electorates were essential to the cause of nationalism in India.

Mr. Chairman, you are aware, and the other members of the Committee are aware that the Mussalman community in India have, ever since the 1st October 1906, when a deputation representative of the Mussalmans of India, headed by His Highness the Aga Khan, to Lord Minto insisted upon the community being represented in the Legislatures of the country through their own separate electorates. You are aware that they have enjoyed that right for the last twenty years, that there have been pledges given to the community that that right will not be taken away from them without their consent, and that those pledges were recognised not only by the late Mr. Edwin Montagu and Lord Chelmsford in their joint Report but also have subsequently been recognised by the Simon Commission as well as by the Government of India. You are also aware that even now, although there has been some change of opinion in some small circles, the overwhelming majority of the Mussalman community in India insist upon the retention of separate electorates. In spite of all this, we, the Mussalman members of the delegation present here, in the interests of peace and good will between the two communities, and seeing that all schools of thought amongst the Hindus, in the Mahasabha as well as among the liberals, have at various stages during the discussions round this table appealed to us to accept joint electorates. We are prepared to face our community in India and to accept the joint electorates subject to certain conditions which have been accepted by Sir Chimanlal Setalvad in his speech and with one more condition about which he was not clear: firstly, that Mussalmans should have reservation, that they should retain the weightage which they at present enjoy in the minority Provinces. Both these points Sir Chimanlal Setalvad in express language conceded in his speech. He also conceded that if the Mussalmans insisted upon it they should have Mr. Muhammad Ali's formula, that formula being that before a candidate is declared elected he must have 40 per cent. of the votes of his own community plus five to ten per cent. (whatever may be agreed upon) of the votes of the other community. Sir Chimanlal Setalvad also in his speech declared that the Mussalman community in the Punjab and Bengal should have their right of majority. What I wish to add to these conditions is simply this. Sir Chimanlal Setalvad did not define that expression that the Mussalmans of the Punjab and Bengal should have their right of majority. The Mussalman community are prepared to accept joint electorates in deference to the wishes of the sister community and to the appeals that have been made to us, provided that the sister community is willing to concede through joint electorates to the Mussalmans of Bengal and the Punjab representation in the Legislative Councils on a population basis, in proportion to their population in those two Provinces.

It should be remembered what is the meaning of this great step which the Mussalman group present here at this Conference are taking in spite of their knowledge that at present an overwhelming majority of the community in India are in favour of separate electorates. What is the meaning of it? The meaning of it is this. Taken together with what I said in my speech the other day,

our Hindu brethren will have a permanent and unalterable majority in the Central Government. They will have a permanent and unalterable majority in six out of the eight Governors' Provinces, and it is only in four Provinces, the remaining Provinces, that the Mussalmans will have a majority, in two—an unalterable and overwhelming majority, just as the Hindus have in six Provinces. Just think of the gesture which the Mussalmans have already made in the North West Frontier Province Committee. They have agreed to give to their Hindu and Sikh brethren a share in the Legislative Council, which is going to be created, three times the proportion of their proper proportion according to population, according to the Hindu and Sikh population of the North West Frontier Province. All that the Mussalmans ask is, as I said before, recognition of their right of majority in these four Provinces. In Bengal and the Punjab that majority is nominal, and in electing Mussalman representatives the Hindu community will have practically an equal voice with the Mussalman community in Bengal and the Punjab—that is to say, the representative elected to those two Councils will be elected by the joint vote of our communities.

Now, this is the offer, or rather the proposal, that I make on behalf of the Mussalman community. It is not a new proposal. My friend Sir Chimanlal Setalvad's proposal, although he put it forward that day—he knows it as well as we all do—was one which, at a much earlier stage of the negotiations between the two communities, was put forward by the Mussalmans themselves. Well, I repeat that offer again now at this meeting, and if all these statements made round this table, all these appeals made to us in the name of nationalism round this table, are appeals, as I believe them to be, which come from the hearts of the representatives of our sister community, there ought to be no difficulty whatsoever, for the sake of peace and in the interests of India, in accepting the proposal that I have made.

As I have said, the only security for the Mussalman minority, the only permanent security for the Mussalman minority and the only right solution of the Hindu-Mussalman problem, is the recognition of the just right of the Mussalmans in these four Provinces to their representation as majority in the minority of Provinces—in these four Provinces only—in the Legislative Council. That will be an automatic guarantee of good treatment. This is our irreducible minimum in so far as joint electorates are concerned. If our friends want joint electorates to come into existence this is our proposal; and we are ready to accept joint electorates on these conditions.

Sir Chimanlal Setalvad: May I correct one or two inaccuracies in the statement that Sir Muhammad Shafi made summarising my suggestions? In what I said, Sir, I did not convey that I approved of the scheme of Maulana Muhammad Ali. My appeal was to come into the joint electorate unadulterated, but those are the other alternatives which were before them. I personally am for unadulterated joint electorates. I am not sure that I have not under-

stood Sir Muhammad Shafi correctly in intimating that he means also unadulterated joint electorates on the conditions that he has named.

Sir Muhammad Shafi: I repeated first your statement.

Sir Chimanlal Setalvad: It was not one but various alternatives, but my principle thing was joint electorates. Now when you are offering these conditions do I understand that they will be joint electorates in the ordinary sense?

Sir Muhammad Shafi: That is the proposal with the condition made by Maulana Muhammad Ali.

Sir Chimanlal Setalvad: Then Sir Muhammad Shafi's offer is not for joint electorates pure and simple, but it is joint electorates with the further condition of Maulana Muhammad Ali. Let us understand that. Secondly, I did not indicate with regard to Bengal and the Punjab any particular majority or number. My suggestion was to accept the Government of India figures, and that is what I said.

Sir Muhammad Shafi: May I say that so far as we are concerned we are prepared to accept joint electorates on the conditions named by me: firstly, that the rights at present enjoyed by the Mussalmans in the minority Provinces should be continued to them; that in the Punjab and in Bengal they should have two joint electorates and representation on a population basis; that there should be the principle of reservation of seats coupled with Maulana Muhammad Ali's condition. That is the position so far as we are concerned.

Dr. Moonje: Sir, before dealing with the statement which has just been made by my honourable friend, Sir Muhammad Shafi, I would like to say something on the statement that he previously made. I will promise that I am not going to raise any controversial debate. We have had enough of debates throughout. I am not going to indulge in any kind of rhetorical or sentimental appeal. I am going to place my case before you in a matter-of-fact way and in the language of mathematics as to what the situation of the Hindus would be in India if the Muslim demands made by Sir Muhammad Shafi could be considered acceptable. This is absolutely a matter of fact, there is no sentimentality, and no controversial debate. I appeal to all to bring about a mentality such as the scientists have in the laboratory. I ask you to look at the facts in the way in which they appear without allowing your heart to supervene your reason. If I find afterwards that I have succeeded in convincing your reason, then perhaps I may feel that I have the right of appealing to your hearts, but unless I feel that I have convinced your reason I shall not appeal to your heart. I want to put before you for the consideration of the subject in a most scientific way two premises: one that has been propounded by the Mussalmans with the combined wisdom of all their leaders and espoused by Sir Muhammad Shafi, that is that " all legislatures in the country and other elected bodies should be reconstituted on the

definite principle of adequate and effectual representation of minorities in every Province without reducing the majority in any Province to a minority or even equality." These are the principles with which I may not agree, but I assume for the sake of argument that they are correct. I am reading from the fourteen points of the Muslim demands.

Sir Muhammad Shafi: That is what I wanted to correct. Will you please read from the demand as embodied in the Resolution of the All-Indian Mussalman Conference which is reproduced in the second volume of the Simon Commission Report, and not from what has been called Mr. Jinnah's " fourteen points." Will you please read our demands as those embodied in the Resolution of the All-India Mussalman Conference presided over by His Highness the Aga Khan reproduced in the second volume of the Simon Commission Report?

Dr. Moonje: I do not want to mislead anybody, but for the last four years, from the time when this controversy began, these fourteen points were placed before us. Up to the moment when a settlement was provisionally arrived at, or I should say perhaps up to this moment, until Sir Muhammad Shafi made that suggestion, these were the fourteen points which were laid before us.

Sir Muhammad Shafi: I think that it is better not to refer to private negotiations.

Dr. Moonje: I am not referring to private negotiations. If this principle is to be taken as correct, then if anybody has any reason to make a demand for that kind of reservation it is Dr. Ambedkar. When I am speaking of Dr. Ambedkar and his community I have to hang down my head in shame. I remember the kind of legitimate grievances that he has against me. I have been doing as best I could, more particularly during the last five years, to remove those grievances. I have been seeing also as the result of all the propaganda, the ray of hope that a change is coming. As a sample perhaps of what is being done I may be allowed to quote the resolution that the Hindu Mahasabha passed in the matter of Dr. Ambedkar's community. " The Hindu Mahasabha declares that the so-called untouchables have equal rights with other Hindus to study in the public schools, to take water from public wells, and other sources of drinking water, to sit with others at public meetings," and so on. Having made this explanation and made my apologies to my friend Dr. Ambedkar I take the premise that he has made out. He rightly believes that these are all pious wishes and pious sentiments. He has now made up his mind to ask for complete partition, as he put it in his own language, from the Hindu society. Whether he is right or whether he is wrong his God in himself will dictate to him, but certainly I have no right to ask him to reconsider that point until I am prepared to treat him as I treat my own men. Therefore I leave that matter to him. For the sake of argument I take the premise that he has made that he wants complete partition from the Hindu community at the present moment. If these two premises are taken let us see what is going to happen. Let us

take the population of British India first. The population of British India is composed of 25 per cent. Mussalmans.

Sir Muhammad Shafi: A little over 25 per cent.

Dr. Moonje: I will say 26 per cent. of Mussalmans. If that is going to satisfy my friend, Sir Muhammad Shafi, I have no objection. The Depressed Classes are 19 per cent.; Christians, Parsees, Sikhs, etc., are about 3 per cent. That comes to 47 per cent. Hindus are the remaining 53 per cent. If the communal demands are accepted now, because the Hindus form the majority community, and the majority community can afford to be generous, as appeals are made to the majority community and they are supposed to respond generously to the demands made by the minority communities, it will be something like this: the Mussalmans are demanding 33 per cent. The Depressed Classes are demanding more, about 26 per cent., but I have not yet agreed to consider even the weightage for the depressed classes. However, if the representation is on the basis of their population it comes to 19 per cent. Christians, Europeans, Sikhs, Parsees, etc., are about 5 per cent. and if they demand about 10 per cent. representation then it means that 65 per cent. of the representation is distributed to those communities which call themselves Minorities, and which make an appeal to the generosity of the community which is known as the majority community 62 per cent. or 65 per cent. having been thus doled out, what is there remaining? There is about 33 to 35 per cent. for the Hindus. The rule enunciated by Mr. Jinnah is that all Legislatures in the country and other elected bodies should be constituted on the definite principle of adequate and effectual representation of minorities in every Province without reducing the majority in any Province to a minority or even to an equality. I do not think that it could be said that this rule should not be made applicable to the Hindus; that it should be applicable to others, including even Mussalmans, but never under any circumstances should it be applicable to the Hindus. If that is so I have no argument to make.

Sir A. P. Patro: It is dealing with Provinces.

Dr. Moonje: I am dealing with the whole of British India first. I am coming to the Provinces next. If you will have a little patience I will get through it.

Sir A. P. Patro: We will have patience.

Dr. Moonje: If that rule is given effect to, and if the demands are responded to as I am asked to respond to them generously, then the majority community is reduced to insignificant minority, *i.e.*, 33 per cent., or one-third, or perhaps even less.

Let us see what happens in the Provinces. The two most controversial Provinces are Bengal and the Punjab. In Bengal Mussalmans are 54 per cent. or 55 per cent. The Depressed Classes are 25 per cent., Europeans, Christians and others, want about 10 per cent. I have taken the figures from the Simon Commission Report. They come to 89 per cent. The Hindus, although 18 per cent. in Bengal,

get only 11 per cent. In the Punjab the Mussalman are 55 per cent.; the Depressed Classes are 13½ per cent.; the Sikhs are 11 per cent.; Christians, Europeans and others are about 1 per cent. With regard to the demand the Mussalmans want 55 per cent. The Depressed Classes are only 13½ per cent. I am not giving them any weightage. The Sikhs cannot do without their present weightage because otherwise they have just threatened us with civil war, and for the sake of argument I accept their 18 per cent. I am a poor, meek, docile, non-martial Hindu. Therefore the announcement of civil war caused a shock of fear in my heart. Therefore, suppose I am prepared to yield to him his 18 per cent. Supposing that Christians, Europeans and others require 5 per cent., then it comes to that the Hindus in the Punjab, although 19½ per cent., get only 8½ per cent.

Now let us go to the United Provinces. What do we find there? In the United Provinces, Muslims are 14 per cent.; the Depressed Classes are 26½ per cent.; Europeans, Christians and others are something which I have not been able to work out. With regard to representation; Mussalmans are at present getting 30 per cent. of representation and they want their present weightage to be retained. Mussalmans, although they are 14 per cent. in the United Provinces, are getting 30 per cent. at the present moment, and they want that weightage retained. The Depressed Classes, poor men, are 26 per cent. They want weightage, but I am not prepared to grant it to them at the present moment. The Depressed Classes according to their population basis are 26½ per cent. I do not know what is the numerical proportion of Europeans, Christians and others. I do not know whether it will be considered satisfactory to grant them say 5 per cent. for the sake of argument. It comes to 61 per cent. The Hindus in the United Provinces, although 59 per cent., get only 39 per cent.

Sir Muhammad Shafi: May I ask one question for the purpose of elucidation Dr. Moonje has been speaking of Depressed Classes and Hindus as if these were two separate sections. Will Dr. Moonje tell me whether he regards the Depressed Classes as Hindus or not?

Dr. Moonje: It is not a question of my regarding the Depressed Classes as Hindus. It is the Depressed Classes who should regard whether they are Hindus or not. I regard Mussalmans as Hindus of Hindusthan myself. After all they are my own kith and kin and of my own blood. I do not become a Pathan or I do not become an Arab because a Pathan or an Arab Priest has converted me to Islam. You are Hindus all the same, but it is your look out whether you are prepared to own yourselves as Hindus of Hindusthan or not. In the same way it is for Dr. Ambedkar to say whether he is prepared to own himself a Hindu. He has made a statement that he wants a complete partition from the Hindus and, therefore, I said at the beginning that I am starting on two premises as a scientist goes into a laboratory. If those two premises are correct then you see the situation from those figures before you. If those figures prove anything they tell the tale that your own principle does not stand.

Let us now see how the situation lies in Bihar. In Bihar and Orissa the Mussalmans are 11 per cent. and they are getting 18 per cent. My friend, Sir Muhammad Shan, with great exultation said: "In the North West Province look at how generous we are. We are giving three times more representation to the Hindus than their population entitles them to." I wonder if that calculation can come up to my calculation of generosity. In my Province the Mussalmans are hardly 3½ per cent. or 4 per cent., and I am giving them 15 per cent., or four times more. In Bihar and Orissa Mussalmans are 11 per cent., Depressed Classes 14½ per cent., and Christians, Anglo-Indians and Europeans may be about 3 per cent. The Mussalmans are demanding 18½ per cent.

Sardar Ujjal Singh: 25.

Dr. Moonje: My figures may be corrected. I have put down 18½ per cent. Until I see it, I cannot correct it on the spur of the moment. It can be corrected afterwards if I am wrong. The Mussalmans are 11 per cent. and they are getting 18½ per cent.; the Depressed Classes are 14½ per cent., and of course they want 14½ per cent.

Dr. Ambedkar: No, more than that.

Dr. Moonje: Christians, Anglo-Indians, Europeans, etc., want about 18½ per cent.; total 54 per cent. The Hindus, though 68 per cent., get only 46 per cent. Now I come to Madras; in Madras the Mussalmans are 6½ per cent., but are getting at the present moment 15 per cent. The Christians are about 3 per cent., and according to my calculation they are at present getting 6 per cent. In Madras the Depressed Classes are 15½ per cent. They want 22 per cent. according to their own calculations. The Europeans, etc., want about 10 per cent. It totals 53 per cent. The Hindus though 72 per cent., get only 51 per cent. It must be noticed in the case of Madras that at least in that Province there ought not to be any communal question, because fortunately they have a political party called the Justice Party, of which Christians, non-Brahmins, Hindus Mussalmans and others can become members on a political basis, and as between members of the party I am assured that they do not make any discrimination on the point of their religion when setting up fit candidates for the election. Therefore, if my information is correct, I do not think there ought to be any kind of communal consideration or communal representation in the Province of Madras.

Now look at the Bombay Presidency. In the Bombay Presidency the Mussalmans are 20 per cent.; they are getting at the present moment 25 per cent.; which they want to retain.

A Member: 30 per cent.

Dr. Moonje: 30 per cent. I have made a mistake. Thank you. The Depressed Classes who are about 8 per cent. want 12 per cent. Christian Europeans, etc., want 19 per cent. That comes to 57 per cent. The Hindus are 69 per cent. and get only 43 per cent.

Such will likely be the situation in all the Provinces. That will be the position of the Hindus if this appeal for generosity is

responded to. I hope my friends here belonging to any party, or belonging to any section of this Conference, do not hope that in response to the appeal for generosity the Hindus should submerge themselves to such an extent that they may be practically extinct from the political life of India. I do not think anybody would be justified in making that kind of appeal.

Now I come to the statement Sir Muhammad Shafi made just now. He has been careful enough to say that separate electorates are their privileged rights, and, though there has been some change of opinion, still the vast and overwhelming majority of people among the Mussalmans claim their privileged right of separate electorates. It is a very auspicious sign that, after having seen the effects of separate electorates for the last 25 years, there has been a change of opinion amongst the Mussalmans themselves. If my information is correct, and that information has been conveyed to me by no less a person than Sir Tej Bahadur Sapru, such leading and responsible men as Sir Ali Imam, who was a member of the Executive Council of the Viceroy, and the Raja of Mahmudabad, who was Home Member in the United Provinces Government, and several others equally important and equally influential, have sent a wire to Sir Tej Bahadur Sapru saying that if this Conference is carried away to the extent of accepting separate electorates, separate electorates will be repudiated and denounced in India by the Mussalmans. That is my information.

A Member: It is wrong.

Dr. Moonje: It may be wrong. You can have it corrected. That is my information. But, anyhow, Sir Muhammad Shafi himself admits that there has been a change of opinion in spite of these things, and if that change of opinion had not been in influential quarters, I do not think Sir Muhammad Shafi would have taken the trouble of mentioning that fact on the floor of this House. Sir Muhammad Shafi has referred complainingly to what I have said about leaving Muslims alone in my speeches in the Hindu Mahasabha. I have said: Leave the Mussalmans alone for some time; they will themselves think it out and find that separate electorates are no panacea for them, separate electorates are no protection for them, separate electorates are no heaven for them; they will find that themselves. It is therefore that I have been appealing to my friends to leave the Mussalmans severely alone for some time. One of my friends, the Nawab of Chhitari, really responded to my appeal when he said, in response to the imploring appeal of Sir Chimanlal Setalvad: The more you press me and the more you press the Mussalmans to accept joint electorates, the more we feel there is something behind your minds and the more we become insistent on separate electorates. I knew it. This is human nature and I know human nature. I have studied human nature in all its aspects, in the course of my political life and in my own profession. It was this knowledge of human nature that made me give a warning to my Hindu friends: Leave the Mussalmans severely alone for some time and they will themselves see the futility and the evil of separate electorates, they will themselves come round and say: No,

we prosper much better under joint electorates than under separate electorates.

Then Sir Muhammad Shafi referred to certain settlements at which we had arrived, but those settlements were arrived at under assumptions which are non-existing now. On their own merits however I have no right to try to get away from what I have said and admitted in the statement of the Hindu Mahasabha circulated amongst members. I have absolutely no objection to accepting certain suitable formulae in the case of recruitment to the Services and in the case of formation of Cabinets. Nobody can say that, because the Hindus form the majority community, therefore the Hindus should have the monopoly of public services; nobody is prepared to say that. Nobody has said that because the Hindus formed the majority community, therefore *all the Cabinets in all the Provinces must be Hindu Cabinets*, and there must be no Muslims, no Christians, and no Parsees. Nothing of the kind has been said. As a matter of fact I may give an illustration as to how the Mussalmans will receive real protection under joint electorates. I can give that illustration from my own Province. In my own Province the Mussalmans are hardly 4 per cent., and in a Legislative Council of 74 members there are hardly 7 Mussalmans. My friend will be glad to to learn that one Mussalman friend of mine has been elected a Deputy President of the Council, defeating a Hindu candidate. There are hardly seven Mussalmans in that Council of 74 members, but simply because they happen to be friends, and to feel for one another in a friendly way from the political point of view, he has been elected.

A Member: Does he belong to the Hindu Mahasabha?

Dr. Moonje: One Mussalman has been elected Deputy President. There was about 2 months ago a General election for the Legislative Council of Nagpur. The overwhelming majority of voters are Hindus, but a Parsee friend of mine, simply because he happens to have the same politics as they have, has been elected a member, defeating Hindus. For 12 years our representative in the old Imperial Council was a Parsee, Sir M. B. Dadabhoy. I supported him and got him elected as opposed to Hindus and my own relations. Parsees in the whole of India are a drop in the ocean if their population strength is to be considered; but Parsees in the public life of India, on the strength of their merit and competency, bulk large in the public eye. We Hindus, and I trust also the Mussalmans, have never grudged the position that the Parsee community has acquired by virtue of its own merit and capacity for work.

I wonder if I should here refer to one point of which much is being made: the so-called historical and political importance of the Muslim community. I am not yet sure whether I should refer to it. If there is no misunderstanding on that point in the minds of those who have studied the history of India for the last 700 years, I need not refer to it. I think it should be

enough to say that—as I am mentally constituted—I feel that in the public administration of the country, no community, whether it is small or whether it is large, has any special importance of its own. They are all equal before the law; they are all of equal importance for the public administration of the country; and everything in that public administration should be open equally to all on the basis of merit. If any discrimination however is to be made on the basis of political and historical importance, I do not think in a Province like the Punjab anybody could say that that community consisting of a handful of people called the Sikhs is inferior to anyone in its record in the history of India. They have thus both a special historical and political importance. I am not speaking of my own community, because the Mahrattas have been absolutely blotted out from the face of history. For that reason I am not speaking of the Mahrattas, but at least the facts of history are known with regard to the Mahrattas and the Sikh community. The Sikhs stand to make their special claim if any special importance is to be given to political and historical antecedents in the matter of distribution of representation. The Sikh community says it cannot be forgotten and nobody should forget it. The Muslims are no other than the Hindus converted to Islam and they cannot historically lay claim to belong to the past foreign Muslim Rulers of India.

As regards the share that is to be taken for the defence of India by the several communities, it is said that when power has been transferred, Dominion Status has been conferred and India becomes a self-governing country, responsibility for defence will have to be taken to the extent of more than 50 per cent. of our Mussalman friends. I am so glad to be assured that responsibility for defence will be undertaken to the extent of more than 50 per cent. by the Mussalmans alone of India. I am so glad to hear that. But there are also other communities which are inherently capable of undertaking responsibility for the defence of India. If you look to the history of British rule and British sovereignty in India from its inception up to the time when the whole Indian Empire came into the hands of the British, you will find that the British people came to Madras, recruited their armies from the people of Madras, conquered Madras and the country surrounding Madras. When this surrounding country was conquered, then this army went to a neighbouring Province, and, the British, with the help of the Madras soldiery, conquered the neighbouring Province. When the neighbouring Province was conquered, soldiers were recruited in that neighbouring Province, and the Province next to that was conquered with the help of those soldiers. In that way it went on in mathematical progression as far as the North West Frontier Province. When they came to the North West Frontier Province, they found there a fair field and a large field for recruitment; there was the whole of the tribal territory, the whole North West Frontier Province, which constituted a field for the recruitment of their army. They then forgot their old friends the Madrasis, their old friends

the Telugus, their old friends the Beharis, their old friends the Depressed Classes, who contributed largely to the success of the British arms in India. Of course we Mahrattas could not lay claim to that because we were ourselves fighting the English people in those days. But at least this is true, that if the recruitment is to be made throughout India, there are communities in India which can offer you soldiers, which can offer you fit people for recruitment in the army. Therefore, though I am very thankful to my honourable friend Sir Muhammad Shafi for saying that when Swaraj is obtained they will contribute 50 per cent. for the defence of India, there are other communities which will fight side by side with them as Indians of India for the defence of their country and their Motherland.

Appeals are made to me for settlement and amicable agreement. I have tried my best to reach such an agreement and I cannot understand why I have not been able to induce a mentality of compromise, as I thought I should be able to do. I looked into the Despatch of the Government of India more carefully afterwards; I studied the Government of India Despatch, and I found that so long as human nature is what it is, and so long as the Government of India Despatch is as it is, it is impossible to come to a compromise, it is impossible to evidence a mentality of compromise. It was the British Government which introduced the pernicious system of separatism by giving separate electorates to the Mussalmans 25 years ago. The whole of India was protesting at the time against separate electorates, and yet Lord Minto admitted in his speech, which is quoted in the Simon Commission's Report that this is a valuable privilege of the Mussalmans, and without separate electorates the Mussalmans will not be able to take their due share in the public administration of the country. As against the protest of the whole of India that right of separate electorates was granted to the Mussalmans by the British.

Then in 1916 the Muslim League and the Congress sat down together. Of course, I was a younger man in those days and I had not much voice in the party to which I belonged. My elders were there; some of those elders are present here. Though I was even then against separate electorates, of course my voice was drowned in the voice of my leaders, and the argument that prevailed was: Government has given them separate electorates; why not make a virtue of necessity, agree to it and make friends with the Mussalmans. It is only a question of a temporary period of 10 years. There is no use creating bitterness by refusing something which has already been granted to them by the Government. And we said: If it is to bring friendship and amicable settlements, all right, we agree. We hope it will be a temporary thing, and after they have seen how it works, they will be prepared to give up their separate electorates. When this occasion arose, and the whole constitution of India is now in the melting-pot, we thought that at least now, the Government of India having seen the faults and the evils during the last 25 years

of the working of the separate electorates, would reconsider their position. And if not, and if, arising out of the promise which they have given to them, by which they think they ought to stand, they do not propose to do so, they should at least take the precaution, as the Simon Commission did, of saying: In the event of there being no agreement and no new pact between the Hindus and Mussalmans, the old pact must stand as it is, and must not be excluded. The Government of India however did not stop at that; they went further and gave away practically all the points that the Mussalmans are demanding to-day.

I am therefore working under a great handicap and I can illustrate my handicap by giving a little homely illustration.

Two brothers are fighting for the division of their ancestral property. They went into litigation, the first court, the second court, the third court, the fourth court and finally they came up to the highest court, the High Court of Justice, and before the High Court Judge the two brothers came for the fair partition of what they call their ancestral property, and the High Court Judge says, "You are two sons of the same father and mother. Some land of yours, your whole property, is to be divided. If you do not come to an agreement it will all go into the hands of the barristers and solicitors who are working on each side. Therefore, my advice to you two brothers is, compromise. Come to a compromise. If you do so your property will be safe, but if unfortunately you do not compromise, if unfortunately you do not come to an agreement, then I say I shall give a decree in favour of the younger brother." That is what the Government of India's Despatch means, and under that Despatch could you think, with human nature as it is, that that younger brother could be induced to come into the mentality of compromise for an amicable settlement? When I saw this, I thought "If an agreement, if an amicable settlement is not possible, then let us take it to arbitration. Let us appoint an arbitrator, and whatever decision that arbitrator gives we shall accept." At one stage of these negotiations a suggestion was made, but not accepted by the other side—the suggestion that an arbitrator could be appointed and that his arbitration should be accepted; but it was not acceptable to the other side. Then my friends from Bengal came with an offer, and they suggested that His Highness the Aga Khan should arbitrate in the case of Bengal. I suggested, let Mahatma Gandhi be appointed to arbitrate for the whole of India. If His Highness the Aga Khan's arbitration is acceptable to the Hindus, I think Mahatma Ghandhi's arbitration must be acceptable for the whole of India. I shall lay my case before Mahatma Gandhi. I believe it to be right. I may be wrong, but so long as I believe it to be right I say that if no amicable settlement is possible let us place our case before Mahatma Gandhi, the greatest living man that the world has produced at the present moment. Place the case before him for his arbitration, and accept whatever decision he gives. Besides, there are experts like Prof. Gilbert Murray who have

made a special study of the problem of minorities of Europe. They can be consulted.

Now I think I must close, because I do not want to take much of your time. My friend Sir Muhammad Shafi closed his speech by making an appeal to His Majesty's Government and to the members of the British Delegations. In his appeal Sir Muhammad Shafi said, " Any declaration of policy to be made by His Majesty's Government, or by the representatives of the three great British parties with regard to the constitutional evolution of India must include a declaration with regard to safeguarding the interests of the minorities and of the Muslim community, otherwise it will not be acceptable." I do not read this language, I do not interpret this language, as a lawyer would interpret it or as a man given to analysis of mind would interpret it. If I were to go in for that hair-splitting interpretation I would be prepared to make a different meaning altogether, but I understand what the intention was which actuated my friend Sir Muhammad Shafi in making his appeal. I would therefore make a similar appeal in practically the same spirit. I would therefore make the same appeal to the British Government and to the members of the British Delegations. But I would make it in the words of His Highness the Aga Khan. He has said: " If we eliminate all differences there is one point on which there is complete unanimity. We all ask for a full measure of self-government. We ask you to promise us the framework. If the picture that we are to paint on it is unsatisfactory to any of the important minorities we will try again. If we fail we will try again, and we will continue to try till we produce something that will be generally satisfactory." I make that appeal, and I say that in making our attempt let us try the arbitration of no lesser man than Mahatma Gandhi. We can have assistance from experts like Professor Gilbert Murray, who have studied the problem for a long time, and let us not say that because to-day and at this moment we cannot come to an amicable settlement therefore the future of India should be hung up. That is not what I mean to say nor what any Indian should say. That is not what I hope the British Government will do. That is not what I hope the members of the British Delegations will pay their heed to.

I have now to complete my statement. If any further reply on the points raised is needed there is the statement of the Hindu Mahasabha, which has given a full reply to all the points raised by Sir Muhammad Shafi. I place it on the table of this House so that it may be incorporated in the proceedings, and the world and the British Delegations will judge the whole demands made by the Mussalmans, on the one side, and the replies given by the Hindus on the other side, and they will judge for themselves and find out where truth lies and where justice and equity lie very quickly.

Sir Muhammad Shafi: Do I understand that the proposal made by me on behalf of the Mussalmans on the basis of a joint electorate is not accepted by Dr. Moonje?

Chairman: Would you answer that, Dr. Moonje?

Dr. Moonje: Would you please repeat the question?

Sir Muhammad Shafi: Am I to understand that the proposal made by me to-day on behalf of the Mussalman community on the basis of joint electorates is not accepted by you?

Dr. Moonje: Does your proposal include my acceptance of the principle of giving a statutory majority to a community wherever it is a majority?

Sir Muhammad Shafi: The proposal as made, whatever it includes. The proposal as made—do you accept it or do you not accept it? We have other proposals. Tell us, do you accept it or do you not? That is the question.

Dr. Moonje: I have taken notes of your proposal.

Sir Muhammad Shafi: I will repeat it if you like, if you want me to.

Dr. Moonje: Yes.

Sir Muhammad Shafi: That we are willing to accept joint electorates and give up our right of separate electorates if our representation on the population basis in Bengal and the Punjab in the whole House is agreed to, and the weightage in the minority Provinces is given to us by means of Muhammad Ali's formula.

Dr. Moonje: I will give you a clear and definite reply. For compromise I am prepared to accept under joint electorates a system of suitable weightages in the Provinces where the Mussalmans and others are in the minority. That is a clear and definite reply. I am not prepared to agree to give any statutory protection to a community which is in a majority in any Province.

Sir Muhammad Shafi: It is not a question of statutory protection.

Chairman: Listen to the answer.

Dr. Moonje: Let me give the completion of my answer in my own way. I have no objection to the Mussalmans in Bengal and the Punjab, being numerically superior, getting their majority. My objection is to guaranteeing them a majority by statute. That is my objection. To a system of suitable weightage under joint electorates for protection to the minority in the Provinces I have no objection.

Now, as to your proposal about Muhammad Ali's scheme, of course, I have not studied it very carefully, but I said at the time when Muhammad Ali's scheme was brought to my notice that it is no scheme other than separatism, because you could not, unless you register separately, unless you vote separately, say whether a candidate has received 40 per cent. of this community's votes or 10 per cent., or 30 per cent. of that community's votes. It is not joint electorate; it is separate electorate. Therefore I have said from the beginning that Muhammad Ali's scheme is one which I can never approve.

Sir Muhammad Shafi: Then there is one point which it is necessary to make clear. Dr. Moonje has been talking of the protection of minorities. I have not asked for any protection. He has been talking of majorities. There is no question of any majority. My question was " Is Dr. Moonje prepared to concede to the Mussalmans in Bengal and the Punjab through joint electorates representation on a population basis?" That is my question. It is a question that can be easily answered.

Dr. Moonje: I have already replied to that question I cannot agree.

Sir Muhammad Shafi: Then our proposal is rejected.

Diwan Bahadur Ramachandra Rao: After all, there are other members of the Hindu community who have other views, and I do not think it is fair to say that your proposal is definitely rejected by the Hindus.

Sir Muhammad Shafi: I only said Dr. Moonje refused it.

Sardar Ujjal Singh: I doubt if Dr. Moonje can speak on behalf of the Punjab.

Mr. Chintamani: I am a Hindu, but I am not here to speak as a Hindu, much less as a representative of any organisation of the Hindu community. I follow Dr. Moonje in the order of speakers, but I do not follow him in many of his opinions. The spirit that informs me is the same as that by which the speech of my friend Sir Chimanlal Setalvad was informed the other night, and I speak as a member of a non-communal party viewing the question from the point of view of India and Indians, and not from the point of view of any smaller territory or any smaller body of men. If in the observations which I am going to make I shall utter one single word which may appear to any fairminded man to be communal in spirit and to be partisan in its nature, I shall not easily forgive myself.

Looking at the whole question from this point of view, I can but express my feeling of great pain that the proceedings of this Committee should have brought to the surface such a large quantity of difference of opinion among Indians belonging to different sections as we have unfortunately had to witness. Sir, the title of this Committee is the Minorities Committee. It is the duty of every member, as I see it, to look at the problem from the point of view of minorities of whatever community those minorities may be made up, and not with the eyes of Hindu, or Muslim, or Sikh, or any other denomination.

Now, Sir, in considering what part of the community forms a minority and what does not, we have to take two units, one India as a whole and the other each Province by itself. If we take India as a whole, undoubtedly as compared with the Hindus the Muhammadans and other communities do form minority communities, and therefore it becomes the duty of this sub-Committee to consider in what manner and to what extent provision should be made in the constitution for so safeguarding their legitimate

rights and privileges as to induce in them a sense of security and confidence. In this behalf the proposal has been made on behalf of the Muslim community that their representation in the Federal Legislature should be a third of the total strength of that Legislature. Subject to any adjustments and variations that a detailed study of the composition of the Legislature may necessitate, I have no hesitation in conceding this claim of theirs, that as a minority, and the largest and most important minority in the country, they should have one-third of the seats in the Central Legislature.

Now, Sir, when we come to the Provinces it so happens that it is not the same community which is a minority community in every Province, and unfortunately, it is further the fact that at least in one Province there are two minorities, neither of which is small but both of which are important in respect of numbers, and therefore both of which have to be recognised and satisfied. In six out of the eight Indian Provinces, excluding Burma—I say excluding Burma, not because I take it for granted that Burma shall be separated, but because Burma does not enter into our calculations for the purpose of the present discussion—in six out of the eight Indian Provinces, I say, the Muslim community does form the most important of the minorities. Therefore there has been safeguarding of Muslim interests in two forms, first by means of a separate electorate of Muslims only, and secondly, by the grant to them of a quantum of representation in the Legislature decidedly in excess of what their numerical proportion in the population entitles them to. I take it that this part of the community problem is not very seriously under discussion at the present moment, because not even in the speech of Dr. Moonje has the question been raised whether the weightage given to the Mussalmans where they form a minority should be withdrawn; on the contrary, he has answered Sir Muhammad Shafi's question in the affirmative—that is to say, he agrees to their retaining the weightage advantage that they have been given under the Lucknow scheme of 1916.

Dr. Moonje: In the Provinces.

Mr. Chintamani: Yes, turning to the Punjab and Bengal, their cases are different from the cases of other Provinces. We have to consider what arrangement is most convenient for the country as a whole, and not only for those Provinces. It is the duty of the Minorities Sub-Committee and of the Federal Relations Committee to consider the question of the minorities, and of statutory provision for the safeguarding of their interests in order that they may feel a sense of security. We have got to consider the question of how to safeguard the interests of the minorities in these two Provinces, and not what we are to do for the majorities in those Provinces. This is no more a case before us than the question of the majorities in the 6 other Provinces. Now, Sir, you have to take steps to safeguard the interests of any community, only when that community asks for safeguards. Do the Hindu mino-

rity of Bengal, and the Hindu and Sikh minorities of the Punjab, ask for measures such as separate electorates or reserved seats or weightage? If they do ask for it, I am sincerely sorry for them. If they do not ask for it, it is not our business to go out of our way to give them measures of protection which they themselves do not deem to be necessary. They come on the scene not because they have got up and demanded measures of special protection, but because the community which is the majority in those two Provinces asks for both separate electorates and guaranteed representation, which affects their own interests.

Now, Sir, taking the Punjab, Sir Muhammad Shafi has very clearly enunciated a proposition on behalf of those for whom he has spoken. His claim is that in the Punjab, on the basis of a joint electorate, there should be a statutory recognition of the majority position of the Muslim community: The statute should guarantee to the Muslim community in the Punjab representation corresponding to their proportion of the population. Leaving aside the merits and the drawbacks of this proposal in the abstract and in theory, let us consider whether it is practicable for this claim to be accepted by this Committee without at the same time doing violence to the principle of safeguarding minority interests which is the basis of our entire discussion. If in the Punjab 54 or 56 per cent. of the seats in the Legislature is by statute guaranteed to one community, and if then you take the case of the Sikhs, if you do not improve their position you must at least see that it does not grow worse than it is under the present constitution. Therefore you have to give them about 18 per cent. If then you make provision for the representation of the Depressed Classes, the Indian Christians, the Anglo-Indians, and the Europeans, none of whom you can justly ignore, and none of whom will allow you to ignore them, then what is left for the other minority, the Hindus minus the Depressed Classes? Is it any part of any scheme of minority protection in any of the modern constitutions which have been adopted since the war, with the consent of England as a member of the League of Nations not less than of any other Power, to make statutory provision for the majority representation of the majority community, and is that the form which the safeguarding of minority interests can in reason take? This is a question which those who are not obsessed by partisan considerations are bound to consider. They may belong to the same religious creed as one of the parties to the controversy, but there are here the members of the British Delegations who do not labour under the disadvantage under which we here labour of being Hindus as a community and of the same religious persuasion. It is up to them to consider whether they can seriously defend to themselves and to their Parliament any proposals which so far depart from every known and accepted principle of minority protection as to give a legislative guarantee to the majority, and leave one or the other or both of the most important of the minorities in a position of greater disadvantage than their numbers in the population have placed them in. I

will not attempt an answer to the question. I will not make the attempt, not because I consider myself wholly incapable of making it, but because, as I have said, I labour under the disadvantage of belonging to the same religious persuasion as at least one of the parties to the controversy. Therefore I leave the question which I have propounded to the impartial consideration of the third party who are neither Hindus nor Muslims.

I come now to the question of separate electorates. Sir Muhammad Shafi did me the honour the other day of referring to certain observations made by me in my evidence before the Indian Reforms Enquiry Committee of 1924. To the best of my recollection I then stated that our experience of the working of the United Provinces Legislative Council between the year 1921 and the year 1924 had not brought to the surface any serious disadvantage in the retention of separate Muslim electorates, and that there was only one occasion when the Council frankly divided itself on communal lines. That was on the question of the quantum of Muslim representation on the District Boards of the United Provinces. Sir Muhammad Shafi further mentioned that I shared full responsibility for the introduction of separate electorates into the elections for the District Boards of the United Provinces. That is the absolute truth. The position in which my colleague who was in charge of the Bill and myself then were, was that separate electorates were in being, not only for the Legislative Council, but also for the municipalities in the United Provinces, and that before the new Government came into being in 1921 a Committee of the Legislature of the previous Government under the Lieutenant-Governor had put forward an agreed scheme of Muslim representation, from which my colleagues and I did not see reason to dissent. I will now speak on the question of separate electorates with a full sense of my responsibility for the position which I took in 1922 and 1924, but in the light of the larger knowledge of the working of the system which the subsequent years down to date have enabled me to acquire. I am of opinion that separate electorates have had a very prejudicial effect on the working of the Legislature, in that a premium has been placed upon communal over-zeal, and candidates both Hindu and Muhammadan who wanted to adopt the exclusively national, and not the lower communal, point of view have been seriously handicapped in giving effect to their national outlook. As no Hindu candidate need get a single Muslim vote, and as no Muslim candidate has to get a single Hindu vote, but the contest is between Hindu and Hindu, and between Muslim and Muslim, the tendency has been (I am now speaking merely of actual facts as I have observed them) for that candidate who puts himself forward as the more zealous advocate of his own community's interests to be at a decided advantage as compared with another who speaks for the more intangible nation as a whole. Once they are in the Legislature those who wish to seek re-election constantly see that. It is no fault of theirs if they think so. If the members of His Majesty's Government and of His Majesty's Opposition here were

in the identical position they would think so too. They are constantly obliged to think what their own constituency is likely to think of their vote on a particular question when next they go before the constituency. If they adopt the less communal and more broad-minded national point of view they might suffer by the side of the other candidate in the constituency. These are the effects, and I wish with all my heart that this system of separate electorates should be done away with, if at all possible. I would explain my meaning in employing the phrase, "if at all possible." The abolition of separate electorates, and the substitution therefore of joint electorates, is so great a national advantage that the advocates of this change may in justice be called upon to pay a price for that change, and thereby show their sense in its value. Therefore I for one am prepared to consider that it is a very legitimate claim which those who enjoy separate electorates now make when they say that they should get some *quid pro quo* for the abandonment of separate electorates. Having admitted this I would hasten to add that it is our duty further to consider whether the price that we pay is too much. That is not in a bargaining sense but in the sense that the price that we pay may be so prejudicial to general national interests that after all it may be a smaller evil to put up with separate electorates than to bring about their abolition by expedients which in the working of the administration may be harmful, detrimental, and embarrassing at nearly every turn. If, therefore, the abandonment of separate electorates can be brought about only by a statutory recognition of a majority community being entitled to the majority of seats in the Legislature, leaving the minorities in a position of greater disadvantage than they already occupy, I for one shall be prepared to think that it may be a smaller evil to let the *status quo* continue than to bring about the abandonment of separate electorates at so excessive a cost. The whole point is that we want the abandonment of separate electorates, not as a source of new friction, but in order to make the relations between the communities smoother and more friendly than they have been. If that abolition, however, can be brought about only by our incurring serious displeasure or by producing serious distrust in the mind of one community, and if thereafter the new constitution will have to start its work in an atmosphere, not of mutual confidence, but in an atmosphere where the communities will be warring with each other metaphorically, then I think that it is a reform which will lose much of its practical value. One consideration which weighs with me is that it does not matter what the solution of this problem may be so long as the end is not lost sight of. It does not matter whether it conforms in every particular or in many particulars with the theoretical perfection of constitutions, or whether it deviates from theoretical considerations. What we have to do is to reach a settlement, whether by consent or by the responsible Government, which will minimise misunderstandings, which will minimise possible chances of friction, and which will increase the chances of friendly co-operation between the members of the different communities in

working the new constitution. Here I am content to leave the case in the hands of those with whom the decision rests.

The representatives of other minorities have laid their case fully before this sub-Committee. It is a great advantage to us in this sub-Committee that we have as its head no less a man than the Prime Minister himself, a Prime Minister who more than many other prominent men in England has distinguished himself by his very sincere and sympathetic interest in Indian affairs for a whole generation. He has heard the case presented by the spokesmen of every section and of every group. If he thinks that anything like an agreed decision by the sub-Committee is likely I think that we can go further in these discussions. If, on the contrary, the various statements that have been made tend to show that any decisions, except group decisions, are unlikely in this sub-Committee, it will be not only not to prolong pain, but to gain time, and also to bring some ease to our oppressed hearts to conclude the discussion with these general speeches, with the regrettable thought that we have not arrived at an agreement amongst ourselves, but that there is no advantage in continuing the discussions, and that, in the light of the various opinions expressed, the responsible Government might take what they think to be an equitable decision. In that decision they will be justified in bearing in mind that it is always the duty of a majority, not merely to be arithmetically just, but to be generous to a minority community. The majority community should deem it a privilege and good fortune to be able to surrender something in favour of a minority in order to win the confidence of that minority. That is the duty of the majority community. It is also the duty of the minority community, whether it be the Hindus or the Sikhs in some provinces, or the Muhammadans in other provinces, to remember that a minority will have to remain a minority and cannot hope to become a majority. A minority can ask to be saved from oppressive rule by a majority. A minority can ask for a just recognition of minority rights, but it cannot seek to supplant the majority and act as if it were the majority. These are two propositions which either community has always to bear in mind. If any decision taken by His Majesty's Government should give effect to this view, namely, that it is the part of the majority to be generous, and to make a concession, I as a member of the majority community in India shall not only feel no sense of grievance, but I shall feel that he to whom I have entrusted by fortunes and my fate has interpreted my mind most correctly. I feel the less hesitation in making this suggestion that we may conclude this general discussion without going further into details here and leave the matter to the decision of His Majesty's Government. After all the principal problem in connection with the community question which has been troubling us, namely the problem of communal representation by means of separate electorates, is the creation of the British Government. If the British Government who created the problem are asked also to find a solution for it I do not feel any sense of humiliation

or of injustice or injury. In other countries where there have been similar problems the different communities concerned have met many times, they have had many conferences and conventions, and they have ultimately failed to reach an agreement. In the end a decision had to be taken by those who were responsible. That seems to me to be the position here. It may be regretted, but it has to be recognised. No one need feel a sense of humiliation that history has repeated itself in our case.

In conclusion I would only ask that these differences may not stand in the way of the achievement of the essential purpose of this Round Table Conference, namely, the satisfaction of the political self-respect of the people of India by the conferment upon them of the right of self-government. The problem is for the Government. Let it be solved, but I do hope and trust and pray that this may not be regarded as an obstacle in the way of the achievement of that for which we are all here.

Chairman: I have two names in front of me. The gist of the discussion this afternoon has been reported to me. I think that you will all agree that the discussion this afternoon has made it clear that some further negotiations between the communities concerned, at any rate, is necessary for an agreement, but I would like to hear two speakers before adjourning this meeting. They are Mr. Fazl-ul-Huq and Sir P. C. Mitter.

Mr. Fazl-ul-Huq: Sir, I feel very strongly that the discussion should be conducted in an atmosphere free from passion and prejudice, and that while we should all try to throw as much light as possible, we should also try to avoid generating heat. So far as Bengal is concerned some pointed references have been made. I wish to say one or two words, not to enter into any controversy, but to remind this Committee of certain essential facts which have to be borne in mind before any satisfactory solution can be arrived at. When I came to this meeting and when Sir Muhammad Shafi made that proposal, I thought that there would be no discussion on the merits of the proposal that had been put forward. Unfortunately, however, the proposal that has been made has been subjected to criticism on the merits. I wish only to say that while so many arguments have been advanced against the proposal that has been made, it is possible for us sitting on this side of the table to advance counter-arguments to substantiate the justness of the demand that has been made by Sir Muhammad Shafi on behalf of the Muslim delegation. I wish to remind this Committee that when we discussed the proposal that has been put forward, we from Bengal gave our assent to the submission of this proposal to the Committee on condition that the Muslims of Bengal should have representation proportionate to their population strength. I do not at the present moment wish to enter into any discussion as to the reasons why we put forward that proposal. The situation is quite plain. As Sir Muhammad Shafi has pointed out, we have been enjoying this privilege of separate electorates for many years. It has been guaranteed to us by solemn promises made by the

Government, and when we came out to the conference we were asked by all our friends in India not to agree to the abolition of separate electorates on any account. If, however, we agree to the abolition of separate electorates for the purpose of bringing about a settlement between the two communities, we have to take upon ourselves a very heavy responsibility.

What I want this Committee to remember is that, however open to criticism the proposition may be, however objectionable it may appear from some points of view, the fact remains that we, coming from Bengal, cannot consent to separate electorates being taken away, except on that unalterable condition. We are very sorry if this proposition is not acceptable to our Hindu friends. As I said, I could try and convince them that the proposition that we have put forward is quite reasonable. But I do not wish to enter into arguments at this stage; it is not for arguments that we have come here to-day. There was a specific proposal put forward by Sir Chimanlal Setalvad, and Sir Muhammad Shafi has only quoted before the House the words of Sir Chimanlal Setalvad and declared that we, the Mussalmans, are prepared to accept the proposition that has been put forward now for the purpose of bringing about an amicable settlement.

Now, Sir, there are one or two observations which I wish to make in connection with this proposal before I sit down. Dr. Moonje has said that the Mussalmans of India have now recognised the evils of separate electorates, and he has mentioned the name of Sir Ali Imam as one of the leading Mussalmans who have always been against separate electorates and in favour of joint electorates. Let me remind Dr. Moonje that Sir Ali Imam actually moved a resolution in favour of separate electorates at the Muslim League Meeting held at Aligarh in December 1925; he moved that resolution and Mr. Jinnah seconded it. That appears in the record of proceedings of the All-India Muslim League. In view of that fact, I do not see how Dr. Moonje could tell this Committee that Sir Ali Imam is against separate electorates.

Then, Sir, Dr. Moonje has told this Committee that ever since separate electorates were introduced the Hindus in India have protested against it, and that the Hindus were unanimous in declaring that separate electorates have been nothing but an unmixed evil. Without going further into details, I would like to remind Dr. Moonje that it was no less a person than the late Mr. Gokhale, one of the greatest Indians that our country has produced within recent times, who declared in favour of separate electorates for Mussalmans. We know what is called in India the political testament of Mr. Gokhale, and here I read one sentence from the political testament which will show that even Mr. Gokhale was prepared to concede to Muhammadans separate electorates: It is no use throwing the entire blame on the British Government. There have been Indians whose capacity for understanding the needs of the country cannot be questioned who have themselves conceded that separate electorates are necessary. This is what

Mr. Gokhale said: " Then there would be the special representation of Muhammadans, and here and there a member may have to be given to communities." This is what Mr. Gokhale's political testament of 1915 says, as quoted in " Speeches on Indian policy ", Volume II, page 119.

Sir Surendra Nath Banerjee, a great man whose words will carry great weight with this Committee, observed as follows: " The system of separate electorates was recognised by Lord Sinha and finds a place in the Calcutta Municipal Bill of 1917." That is what Sir Surendra Nath Banerjee says in his book, " A nation in the making," page 360. There is another Bengali whose name I may mention to this Committee. He was the President of the Legislative Council and was also one of our ex-Ministers. In the Bengal Legislative Council proceedings, Volume 11, No. 2, page 241, of the 19th February, 1923, he is reported as having said: " Personally, Sir, I am in favour of separate electorates for important minorities; I heartily support the suggestion for a communal electorate for the Muhammadan minorities in Calcutta. It is not that I have taken up this attitude because of any exuberance of feeling for the Muhammadans, but because I am one of those who sincerely and honestly believe that the principle of separate electorates is based on the principle of self-defence. It is a protection which the minority need in dealing with a majority widely differing from it in political and economic development ".

There is a Persian custom of conveying instruction by means of a fable, and in order, Sir, to enlighten if possible the debate by means of a small story, if you will permit me, I will tell it for the benefit of this Committee. Once upon a time there was a lion who somehow or other lost the use of his limbs; he could not go out into the forest to get his prey, so he sat in a parlour which he fitted up with some eatables. All sorts of small animals, like the minorities in India, used to pass in front of the parlour. The lion used to extend a very generous invitation to them to come into the parlour; he would say: " Come into the parlour, my friends, and enjoy as much as possible of my royal hospitality." Now passers-by, who did not know what was in the mind of the lion, or what was in his power to do (like the general British public) wondered why these small animals did not accept this invitation. The small animals (the minorities) on the other hand said: " We are quite willing to enter into that building, but we will enter into that little partition which has been set up for our protection, and we would decline with thanks your royal offer of entertaining us to a royal repast ".

Now, Sir, the point is this. A cry is raised in the name of nationalism. I speak with the greatest respect to all my friends, that if we believed it was a sincere cry for nationalism alone, the Mussalmans would be the very last persons to ask for any protection: but we know that once you have lured us into your parlour, all sense of nationalism will be forgotten, and you will

make short work of all the minorities that come within your grasp. With all respect, Sir, I wish to tell Dr. Moonje that we have learnt this by actual experience in the municipalities and in the local boards and district boards. We have no separate electorates in these bodies in Bengal; there the elections are on a common register. Would Dr. Moonje be surprised to hear that in those parts of Bengal where the Mussalmans are in a minority on the electoral roll, no Mussalmans can succeed in winning a single seat by means of an election. If one or two Muhammadans have so succeeded, it is either by becoming a member of the Hindu Mahasabha, or by giving a sort of written undertaking that they will say aye to everything that their Hindu colleagues may say in the Committee.

In the year 1926, when there were these communal riots, communal feeling ran very strong in Bengal. In Eastern Bengal, where the Muhammadans are in a majority, they retaliated by ousting Hindus wholesale from the electoral polls because of the fact that they happen to be in a majority on the electoral roll. However much you may say that separate electorates are an evil, that the only way to nationhood is by doing away with separate electorates, experience teaches us that in India, where general electorates have been in force in municipalities, local boards and district boards, there has been no approach to the development of the self-governing spirit at all; on the contrary, in the Legislative Councils, where we have got separate electorates, the mere fact that Mussalmans enter the Councils through separate electorates has never prevented us from taking a broad outlook, a national outlook, an outlook best suited to the interests of India in almost all matters that come up before the Legislative Council.

I am not going to take up the time of this Committee, but I would be prepared to convince even the British members of this Delegation that separate electorates are not only no evil, but as a matter of fact they are the best solution that can be found in the circumstances prevailing in India. You have only to remember, Sir, that the best solution may not be an ideal solution; but the best solution has this advantage, that it is better than any other solution that you can put forward. We do not claim for separate electorates that it is an ideal solution; we say that in the circumstances existing in India at present the separate electorates are the best solution that you can conceive.

Then, talking of Bengal, Sir, we may be in a majority in the population, but, so far as the electoral rolls are concerned, we are in a minority. But suppose for a moment again that there is adult suffrage, which is the utmost that you can expect, the Muhammadans of Bengal are put in this disadvantageous position, that Muhammadan females observe strict purdah and do not come forward to exercise their votes. These are some of the reasons why, even in Bengal, the Mussalmans have been asking for special protection; and, whether the demand that has been put forward is extravagant or not, Sir Muhammad Shafi has made it prefectly

clear that if we are going to have such a new departure as almost to revolutionise Muhammadan opinion in India, we can only consent to that on this condition, so far as Bengal and the Punjab are concerned. I am not talking of Sind and the North-West Frontier at the present moment. We can only consent to the taking away of separate electorates on condition that you will consent to give to the Mussalmans in those Provinces representation in the House proportionate to their population, and of the whole House 55 per cent. Sir Muhammad Shafi, of course, will explain it if necessary; I am not going to enter into any statement.

I thought, that to this question, there would be a very simple answer: Yes or no. I did not think that any discussions would be started, because, if there are discussions, we would be prepared to defend the proposition that we have put forward. But if our Hindu friends reject it wholesale, and if, as I find, they have rejected it, the matter ends there. It is no use saying that these our case before the judges. I do not want any party to prejudice are the defects and these are not the defects; that is prejudicing our case by putting forward arguments which we have no opportunity of controverting; because I feel there should be no argument on propositions of this kind. The proposition has been put forward for the sake of peace and amity. Sir Chimanlal Setalvad put it forward in that spirit. Sir Muhammad Shafi has replied to it in that spirit. It is for our friends to say whether they accept it or not. If they do, the matter ends here and the Conference can end to-morrow. If this goes, then the claim that was originally put forward by Sir Muhammad Shafi remains; and, so far as we are concerned, that is the only proposition we can put forward. I do not wish to take up the time of the Committee any longer.

Chairman: I now call on Sir P. C. Mitter.

Mr. Sastri: Mr. Prime Minister, before you call on Sir P. C. Mitter to speak, according to the programme, may I be permitted to break the rule which I have made for myself that I should not enter into this controversy. If you will permit me, I shall not take more than a few minutes, Sir.

In the course of this discussion the name of the late Lord Morley was brought in as the sponsor of separate electorates.

Sir Muhammad Shafi: Not as a sponsor of separate electorates.

Mr. Sastri: As the introducer, or as the favourer, as the advocate, the champion, or whichever you please, of separate electorates; and to-day the name of my reverend master, Mr. Gokhale, has been called in. I do not complain; I only wish to say to those who may not be fully aware of the circumstances connecting these names with this question that that support of separate electorates is subject to this qualification.

In the case of Lord Morley it is well known to those who have read his Recollections that he was not brought to favour separate electorates upon their merits, but that he hesitated a great deal

before he adopted them. I myself had the honour one day of listening to him upon this subject when I complained that in the electoral system of India he was responsible for a vicious element. He told me emphatically that he resisted their introduction for a very long time, and it was not until he was convinced that he could confer no reforms whatever upon India of a political character unless he guaranteed separate electorates that he went and adopted them.

In the case of Mr. Kokhale, although I know that he stood up in support of separate electorates in the Legislative Council and elsewhere, I know that as a matter of fact he always considered them to be necessary evils. He did not think that separate electorates could be justified upon their own intrinsic merits; he adopted them because he found as a statesman that, considering all the circumstances of the case, as my friends Sir Muhammad Shafi and Mr. Fazl-ul-Huq have stated, it was an evil from which there was no escape in the circumstances. If they were alive to-day and we could by pacific arrangements produce a system of joint electorates, no two persons could be found to rejoice more than the late Lord Morley and the late Mr. Gokhale.

Sir P. C. Mitter: Sir, I do not desire to say anything which would add to the difficulties of this very difficult and baffling problem. To my mind, Sir, the main question is how to get peace between the two communities. If we get peace between the two communities by communal electorates, although I do not like it, although my friends to the right do not like it, although the Hindus as a community do not like it, there are many amongst us who will purchase that peace at the risk of giving the go-by to that cherished conviction. At the same time, if by conceding joint electorates we do not attain that peace, we fail in our object. Therefore, Sir, I would appeal to my Hindu friends as also to my Muslim friends to go to the root cause and try to achieve peace.

Apart from that general observation, there is another point of utmost importance to which I think it my duty to refer. That is how to get advance on constitutional lines. From that point of view I do not want to lose in any way the good will of the public of this Conference, the Muslim and the Hindu and the British, for my Province of Bengal. It is perfectly well-known that from the point of view of advance on constitutional lines we have our peculiar difficulties, and none know that better than my esteemed colleagues, Mr. Fazl-ul-Huq and Mr. Ghuznavi. Therefore, I desire to say something as an individual who has not spared himself in the work of peace-making. I hope I shall not be misunderstood, and that the opportunity that I seek for peace and the constitutional advance of my unhappy Province will not be denied.

Now, Sir, I wish myself to speak more as a Bengali, and to tackle the question from the Bengal point of view. I say this with all the experience of more than 30 years of Bengal politics.

I appreciate all the efforts on both sides towards the solution, but the fact remains that a solution designed for Bengal must needs be one that would be acceptable to Bengal. This presupposes a more intimate touch with the public of Bengal than some of my esteemed friends, Mussalmans or Hindus, from other Provinces may possess. Surely I am not here strictly in my individual capacity; I come here in such representative character as I can humbly claim, and I would not here, for the sake of an ephemeral and make-believe harmony, accept a solution on which, on my return, I know it will not be possible for my community to deliver the goods. But I know also that in Bengal, in spite of appearances to the contrary, the relations between the Hindus and the Mussalmans are not so bad as they are supposed to be by men in other Provinces. My esteemed friend, Dr. Moonje, will not misunderstand me when I say that in the election of 1926 seats were contested by the Hindu Mahasabha, seats were contested by the Congress people, seats were contested by the party to which I have the honour to belong. The Hindu Mahasabha could only return one candidate. We could return our 20 per cent., the Swarajists returning 80 per cent., but the position is getting worse and worse.

In the last election the Hindu Mahasabha could return a fairly large number of candidates. I hope Dr. Moonje will appreciate what I say in the spirit in which I am saying it, and will not interpret it as anything derogatory to his great movement; and I appeal to my Muslim friends to consider that if in 1926 the Hindu Mahasabha could only have returned one candidate, and to-day they have been able to return more candidates, there is all the reason why they should look to the other side of the picture. We, the Hindus and the Muslims of Bengal, want to live in peace, and I may say this, that, as Mr. Chintamani has very clearly pointed out, if we cannot come to any agreement, then the British delegations will have to come to a decision for us; but before you do so, will you give us one chance? I am almost certain, Sir, that if you give us a chance of working amongst our people only for one month after we return, we shall be able to solve this problem, if not before—(" No, no.")—May I finish, please? Do not interrupt. Supposing we fail, you will have to decide. Of course, that does not indicate that if we cannot settle here in London we shall not settle. We shall do our best. I have talked to my Muslim friends, I have talked to my Hindu friends, but on account of certain circumstances to which I need not refer, because it would make the position more difficult, if I referred to them, it has become more difficult during the last three days. I am yet not without hope. If we can settle, well and good. We shall then settle in London; but if we cannot settle here, for heaven's sake give us a month's time after we return to India. You do not lose anything, because if we cannot settle you will have to decide. Because I am making an appeal I will not go into the merits of the question, as otherwise I would have liked to have done.

There is only one thing, and that is this, that a claim has been put forward by the backward classes, a claim has been put forward by my Muslim friends, a claim has also been put forward by Sir Hubert Carr, and I believe Colonel Gidney is going to put forward a claim. A claim, I believe, will also be put forward by the Indian Christian community. The effect of those claims on this question ought not to be ignored, and whatever conclusion is come to it should be come to after taking all those claims into consideration.

One word more, and I have done. If we can settle, the question need not be discussed further so far as Bengal is concerned, and let me assure you, if we settle in Bengal we shall not forget that Bengal is a part of India. We do not want to settle anything over the heads of other Provinces, but if we cannot settle we shall put in our written memorandum and let the British Delegations decide.

Chairman: The situation seems to be that at the present moment there is not a very bright prospect of an agreement amongst you. At the same time, do not go away and feel or talk as though some great calamity had happened, because that is not true. This is the kind of problem that those of us who have been for some time in politics know is constantly cropping up, and at the eleventh hour, before the settlement comes, things always look pretty bad. I have never known a big settlement made yet when I was not almost in despair, just a minute or two before it was effected. So far as I am concerned I am not at all inclined to be tremendously disappointed that Sir Muhammad Shafi on behalf of the Mussalmans and Dr. Moonje on behalf of the Hindus have been unable to embrace each other, standing on the top of those tables in the eyes of us all. This is a matter which will be settled. It must be settled sooner or later, and the people who will settle it are you. The British Government, you may depend upon it, whatever it may do, will do nothing to put any obstacles in the way of a settlement, nor will it do anything which will tend to prolong the time which will elapse between now and the settlement. I think the best thing to be done now is, as far as I know—you will correct me if I am wrong,—the various claims of the various communities having been made, and some of you having been good enough to send us typewritten, others printed memoranda.——

Sir Muhammad Shafi: We have not sent any.

Chairman: No; I say some of you; and those of you who have not done that have trusted to your very conspicuous powers of exposition and advocacy, so that the facts are before us; and what I think would be the most convenient thing now to be done would be that I should attempt to summarise and to state what points have been brought forward, what suggestions have been made, so that we shall get them in a document, and that that document, brought before you at a later meeting, should become the Report of this sub-Committee to the full Conference. That

will be done in the course of a day or two, and then we can resume our meetings to consider how far that Report is an accurate minute of what has taken place, and you can examine it and move that perhaps some things might go out, or some things might go on, and that some other things might be differently expressed.

In the meantime I would like to renew the very moving and effective appeal that was made from the ladies opposite at the beginning, and which I have tried, with less grace and much greater shortcomings so far as perfection is concerned, myself to make. I would appeal to you to go on with your negotiations between yourselves. If you agree to that method of handling the business, then we shall adjourn, and I will let you know when the Report is ready in draft for your consideration before it becomes official.

I am sorry, I must leave town to-morrow, and I shall not be back until very early on Friday morning, so that the next two days I shall not be visible; but we will lose no time in spite of that. Do you agree to that method of procedure? (*Agreed.*) If so, then the Committee adjourns.

Sir Shah Nawaz Bhutto: May I be permitted to request you to let us know whether the question of Sind has received your consideration?

Chairman: I think what I had better do is to ask the Secretary of State to bring the matter before the Business Committee, and on my own authority ask them to appoint a Committee; and I will get that pardoned from the full Committee. I will do that.

(*The sub-Committee adjourned at 5-10 p.m.*)

PROCEEDINGS OF THE FIFTH MEETING OF SUB-COMMITTEE NO. III. (MINORITIES), HELD ON 14TH JANUARY, 1931.

Chairman: I ought to explain to you, before proceeding to put this draft of the Report before you, that the intention was to embody in the draft the more important, at any rate, of the proposals and observations made during the meeting of the Committee, so that they might be put on record. I have ventured to propose a termination to it, which, as a matter of fact, you have not hitherto accepted, and I draw attention to its straightaway. It is clause 17.

Sir Muhammad Shafi: Prime Minister, before taking the Report, with your permission I would like to make a statement on behalf of the Muslim Delegation with reference to a possible settlement of the question.

Chairman: Very well. Just let me explain the business, as I have started it, and then I will call upon you. I have had no notice of this.

Sir Muhammad Shafi: I wanted you to know, Sir, that we have another proposal to make.

Chairman: Thank you very much. I draw your attention to paragraph 17, which will be reached in due course, but I wish you to read it and to be prepared to consider the suggestion I make about continuing the work of the Committee. With that exception, as far as I was able to arrange, there is nothing in the Report but what has been said during the meetings of the Committee. What I would propose to do would be to put it to you paragraph by paragraph; but before doing so I will call upon Sir Muhammad Shafi to make the statement to which he has referred.

Sir Muhammad Shafi: Prime Minister, after the last meeting of this Committee, when a certain proposal was made by me on behalf of the Muslim Delegation and was rejected, the Mussalman members of the Round Table Conference, in their patriotic desire, if possible, to bring about a Hindu-Muslim settlement, upon which we realise depends the future of India, had been exploring other possibilities, and I am authorised by the Mussalman members to-day to make a new offer, which, if accepted, will bring this troublesome controversy to an end.

The Committee will remember that with regard to the remaining points certain understandings were arrived at during the course of the negotiations. The real trouble in the end arose in connection with the Punjab and Bengal, and it was over the representation in these two Provinces that the negotiations failed. To-day I am authorised to make this offer: that in the Punjab the Mussalmans should have through communal electorates 49 per cent. of the entire number of seats in the whole House, and should have the liberty to contest the special constituencies which it is proposed to create in that Province; so far as Bengal is conncerned that Mussalmans should have through communal electorates 46 per cent. representation in the whole House, and should have the right to contest the special constituencies which it is proposed to create in that Province; in so far as the Minority Provinces are concerned, the Mussalmans should continue to enjoy the weightage which they have at present through separate electorates, similar weightage to be given to our Hindu brethren in Sind, and to our Hindu and Sikh brethren in the North-West Frontier Province. If at any time hereafter two-thirds of the representatives of any community in any Provincial Legislative Council or in the Central Legislative Council desire to give up communal electorates and to accept joint electorates, then thereafter the system of joint electorates should come into being.

Mr. Zafrullah Khan: In that particular Province?

Sir Muhammad Shafi: In that particular Province, or in the Central Legislature, as the case may be.

Now, Sir, in connection with the offer I have made, there is one point which I wish to make clear. The result of the proposal I have made in Bengal will be that the Mussalmans will remain in a permanent minority, although they constitute a majority of the population. The special constituencies which it is proposed to

set up in that Presidency are such that the Mussalmans can hope at the best to secure only one seat out of these special constituencies, and that is the Dacca University seat. That is a mere possibility; even that is not a certainty. So that the Mussalmans will remain in a permanent minority in that Province. And in the Punjab they have a possibility of securing two seats through the special constituencies, and thus have a majority of one, provided they succeed in securing those two seats.

This is our final offer, and I am sure that it will be realised by all impartial minds that in the interests of peace, in the interests of mutual co-operation and good-will between the two communities, and in the interests of smooth working of the Indian constitution in the future, the Mussalmans cannot possibly agree to incur any greater sacrifice than they are incurring in making this proposal.

Mr. Sastri: Mr. Prime Minister, may I [illegible] the next opportunity to speak; I do so on behalf of a few frends here. I have listened with great respect and attention to the offer which Sir Muhammad Shafi has made just now. We all realise that the differences are capable of settlement, and have, indeed, been more or less settled in regard to the greater part of India; it is only in the Provinces of Bengal and the Punjab that the difficulty still remains unconquered.

None of us for whom I speak can pretend to know all the local feeling and the local circumstances; nevertheless, much has during these weeks come to our knowledge, during the progress of the negotiations, upon which it is possible for us to form something like a detached judgment; and, with the greatest diffidence and with the most profound good-will, and with the request that it will be taken for what it is worth on both sides, I desire to say, on behalf of these friends, that it seems to us that this last offer may be accepted, provided our good friends from Bengal and the Punjab see their way to accept it.

We most humbly request them, on behalf of India as a whole, remembering the condition that Lord Reading has attached to his statement, remembering also what you, Sir, said last night—remembering all these circumstances, we beg our friends from the Punjab and from Bengal, on behalf of the India we all love, for the sake of peace, for the sake of the success of the good work which we have already begun here, and which now stands in peril on account of this single difficulty—we appeal to their patriotism and we beg them to see their way to accept this settlement. In all the circumstances, it seems to us the best approach to the problem.

Chairman: Would our Punjab friends be ready to respond?

Sardar Ujjal Singh: I should like, Sir, to say a few words. I, and for the matter of that the Sikh community, yield to none in our spirit of sacrifice for the cause of India and for the cause of nationalism, and any solution that can be found which is acceptable by all parties would be welcome.

Before this offer it was not known to us at all what was happening behind the scenes or what was going to be offered here at this Conference. In fact, the question of the Sikh representation has not been considered at all. It is all right for my Muslim friends to press for a particular representation to protect their minority interests in Provinces where they are in a minority; but, with due respect and very humbly, I suggest it is for us, the minority community in the Punjab, to lay before this august assembly the minimum representation which the Sikh community would at all be prepared to accept. In this connection, with the same spirit which prevails at this moment in this gathering, and taking upon myself and my colleagues full responsibility, and taking into consideration the great feeling that prevails in my community, I would humbly suggest that any representation lower than a figure of 24 per cent. in the Punjab Council would in no case be acceptable to the Sikh community.

I would not like to refer to the proportions which might in that case be allotted to my Hindu or Mussalman friends, because it does not lie with me to fix any proportions; I can only say this on behalf of the Sikh community, that if you can, under this proportion of 49 per cent. to my Mussalman friends in the Punjab, accommodate the Sikh representation to the extent of 24 per cent., I would not stand in the way.

But please do consider all the communities together—the Hindus, the Sikhs and the Mussalmans—and the Sikh representation to the extent of 24 per cent.; and then, if you can accommodate all these figures proportionately, we should certainly welcome any proposals and any suggestions made in that connection.

Sir P. C. Mitter: Sir, the appeal coming as it does from my respected and revered friend Mr. Sastri, and offered as it has been by my Muslim friends, cannot be lightly ignored. If I could persuade myself to believe that this appeal would lead to peace in Bengal I would unhesitatingly accept it; but, so far as I am able to judge, I am afraid it will not lead to peace in Bengal, and for that reason, and for that reason alone, I am afraid I cannot accept it.

Raja Narendra Nath: 49 per cent. and 24 per cent. makes 73 per cent., and that reduces my share to 27 per cent. It is a principle which is not observed or allowed for any community that its representation should fall so far below its numerical strength in the population. If the Sikh demand is to be conceded, and if the Muslim demand is to be conceded, the representation of my community is reduced from 32 per cent., which is its proportion in the population, to 27 per cent. Now, does that exist in any part of the world? And, if it does not exist, why should my interests and the interests of my community be sacrificed, especially when Sir Muhammad Shafi says that separate electorates will continue all over the country?

Dr. Moonje: I think, Sir, that the way the proposal has been put forward by my friend Sir Muhammad Shafi holds out a hope for mutual accommodation. At least, I feel that if we can sit down together there is a hope that mutual accommodation can be found, because I feel that Sir Muhammad Shafi has been inspired by a willingness to give and take. If this inspiration continues and is strengthened in the interests of the unity of India and in the interests of patriotism and the nationalism of India, I will not be wrong in supposing that there are reasonable grounds for a hope being raised in my mind that a proper accommodation is at last within sight. I have not been able to follow quite accurately—does Sir Muhammad Shafi mean separate electorate also in the Provinces?

Sir Muhammad Shafi: Yes.

Dr. Moonje: Am I right, Sir, in understanding that—separate electorates in the Provinces?

Chairman: Just let me understand it quite rightly. I quite understood you, and I think I rightly understood you, that you insist upon separate electorates in the Punjab and Bengal. Is that right?

Sir Muhammad Shafi: Yes, all through. The result of my offer will be that the majority of Sind, Bengal and the Punjab will be filled up through communal electorates, and there will be a small number both in Bengal and the Punjab which are characterised as special constituencies. There the method of election will be joint electorates, so that the experiment of joint electorates will be tried in those seats. Only as regards the rest, separate electorates throughout.

Dr. Moonje: In all the other Provinces, too, there will be separate electorates?

Sir Muhammad Shafi: Yes.

Sardar Ujjal Singh: Does Sir Muhammad Shafi mean also landowners' seats and all these special seats?

Sir Muhammad Shafi: May I say one more word. We have given 6 per cent. to our Sikh brethren. The rest our Hindu brethren can give to them, as much as they can settle amongst themselves.

Sardar Sampuran Singh: What we want to know is, what special seats do you want to keep common? What seats are they? Are they landholders' constituencies—one Labour seat and four landholders' seats?

Sir Muhammad Shafi: Yes, and University and commerce.

Sardar Sampuran Singh: Well, they have been given up in the latest reports, you know—commerce and those things. I would like to know how the thing will work out. I want to know definitely what you have in your mind.

Sir Muhammad Shafi: It is simple enough.

Sardar Sampuran Singh: After reserving 49 seats what I want to know is, how many do you want to keep open for joint electorates, special constituencies as you call them—how many you are keeping as common constituencies?

Sir Muhammad Shafi: As proposed in the Punjab Government Despatch. There they are.

Dr. Moonje: I think the best course will be, in the circumstances, to meet informally with the Prime Minister, Mr. Ramsay Macdonald, sitting as our conciliator—two or three people on your side, and our Sikh friends and our people on our side. We could sit down together and see where accommodation is possible and how is it possible. I am hopeful that accommodation will be possible.

Sir A. P. Patro: Let us discuss it now and finish it.

Chairman: The proposal that has just been made makes it impossible for us to go on and adopt the Draft Report that is in front of us, because, of course, it changes the whole circumstances. If you would be agreeable, I should propose to adjourn this sub-Committee now, and I will also, you being agreeable, propose to remain in the Chair and to ask that those of you who are specially interested should meet—and we must include Dr. Ambedkar.

Dr. Ambedkar: I am obliged to you, Sir.

Chairman: Oh, yes, we must include him—and see whether by an exchange of opinions across the table we could not come to an agreement.

Sir P. C. Mitter: I should like to join, Sir, in those discussions.

Dr. Ambedkar: We have heard just now these proposals and percentages being disposed of, but really it strikes me that if you add up all these they not only go over 100 per cent. but they practically take no notice of many other communities that are existing in the Punjab and Bengal and in other places. If these communities, the Sikhs, the Muhammadans, the Hindus, are going to appropriate 49 and 20 and so on, what is left for the other people? Are they to be taken into account or not? That is a very serious question, Mr. Prime Minister.

Lt.-Col. Gidney: May I just raise my humble voice—it is a very small voice, I know—in this conflict? I support what Dr. Ambedkar has just said. Surely you are not going to take the political rupee and give 15 annas and 9 pies to the major communities, leaving 3 pies to be scrambled for by the other minorities. On behalf of the smaller communities I maintain we should have some say in this distribution.

Chairman: That is just the point. I think that we had better discuss this matter with a smaller body and a little bit more informally.

Mr. Foot: And no notes taken?

Chairman: And I shall remain in the Chair, you being agreeable, and see what can be done to straighten out the situation that has been opened up by the very hopeful suggestion made by Sir Muhammad Shafi.

Mr. Joshi: May I say just one word, and it is this. A question has been raised about the proportions for different communities; but, Sir, there is a community which is unfortunately not a separate community. It consists of people who have got conscientious objection to voting in any communal electorate. I would like you, Sir, to give some attention to that community, and have some electorates where all those people, whether they are Muslims, whether they are Hindus, whether they are Sikhs, will be able to vote without calling themselves Sikhs, Hindus, or Muslims. I hope, Sir, that that consideration will be borne in mind.

Chairman: I would therefore suggest that this sub-Committee should now adjourn, and that a few minutes should be spent by those of you who are interested to select one or two representatives. Do not make it many. Let us have a Committee at which we can carry on conversations rather than make speeches. We will adjourn to another room and we will consider these new proposals and how they can be fitted in, if possible, into an agreed scheme. Do you agree to that? *(Agreed.)*

Lord Reading: Is this Committee going to sit again during the day?

Chairman: What is your experience, Lord Reading?

Lord Reading: Well, I should suggest that this sub-Committee had better be adjourned.

Chairman: It is adjourned until you are summoned again.

Sir William Jowitt: Adjourned *sine die.*

Chairman: That is the best way to do it, I think.

(The sub-Committee adjourned at 3-30 p.m.)

PROCEEDINGS OF THE SIXTH MEETING OF SUB-COMMITTEE NO. III. (MINORITIES), HELD ON 16TH JANUARY, 1931.

Chairman: I have attempted in this Report to gather all the suggestions that were made and the points brought forward into their proper place, so that the various points do not appear according to the time and place where they were made in the sub-Committee. I have done my best to put nothing in that was not stated or claimed. The only paragraph which is perhaps a little more emphatic than the other statements is paragraph 16, which refers to the British Government. I draw your attention to that so that you will not overlook it; I do not raise it at present, but when we come to paragraph 16 please remember I have warned you it is a

little stronger than the other statements made here. We make that statement in order to have the position clear.

I will take the Report paragraph by paragraph. Nothing arises on paragraph 1, which is simply a report of the membership.

Paragraph 2 begins " The sub-Committee felt that the first task to which it should address itself, was to have an authoritative statement of claims put in by the representatives of each community with proposals as to how their interests should be safeguarded." I assume you have read this. Do you accept that as a correct record? That is the only question before us.

Paragraph 3 begins " One of the chief proposals brought before the sub-Committee was the inclusion in the Constitution of a declaration of fundamental rights " and so on.

Raja Narendra Nath : I propose that we should say " free and equal exercise " in the penultimate line, and not just " free exercise."

Chairman : " The inclusion in the Constitution of a declaration of fundamental rights safeguarding the cultural and religious life of the various communities and securing to every individual, without distinction of race," and so on, " the free exercise," and so on.

Raja Narendra Nath : I propose we say " the free and equal exercise."

Chairman : " of his or her economic, social and civil rights."

Raja Narendra Nath : I do not think we want the " his or her." Cannot we say " the free and equal exercise of economic, social and civil rights by citizens? " I do not insist on it.

Chairman : " equal " is of substance, but I do not think the other matters very much.

Raja Narendra Nath : I suggest we should say " free and equal exercise."

Chairman : As a matter of fact, that is a quotation from Dr. Ambedkar.

Raja Narendra Nath : The word " equal " was used in Dr. Ambedkar's speech.

Sir M. Shafi : I think " free " covers it.

Dr. Shafa'at Ahmad Khan : I think it should remain as it is.

Chairman : It says " and securing to every individual . . . the free exercise." You cannot secure the equal exercise, because equal is an attribute of the individual who uses the rights.

Raja Narendra Nath : I mean equality in rights; equal rights.

Mr. Chintamani : I do not see the particular propriety of that adjective " equal."

Raja Narendra Nath : It is used in Dr. Ambedkar's draft.

Chairman: You can secure to each individual the free exercise of his rights, but if he does not exercise them in terms of equality that is his look-out, not the Goverment's.

Raja Narendra Nath: Very well.

Chairman: " his or her " can come out, I think.

Dr. Ambedkar: After the word " rights " at the end of the paragraph I should like the words "without discrimination " added.

Chairman: It says already " without distinction of race, caste, creed or sex."

Dr. Ambedkar: I should like the word " untouchability " included there.

Chairman: " Without distinction of touchability "? You already have race and caste.

Dr. Moonje: I think it is all right.

Dr. Ambedkar: In order to explain things better I think that word might be included.

Chairman: Do not let us produce a document which people will laugh at on account of the way it is worded.

Dr. Ambedkar: I think we ought to make a distinction between caste and untouchability. Many people who have caste do not suffer from the difficulties of untouchability.

Raja Narendra Nath: Even the Muslims have caste.

Diwan Bahadur Ramachandra Rao: There is caste among the untouchables. " Caste " is a wider expression.

Mr. Foot: Unless an alteration which is substantial is proposed, I understand it is rather late to make an alteration at this stage.

Dr. Ambedkar: I should like to say " social and civil rights on account of untouchability or otherwise."

Chairman: Untouchability is a violation of social rights, and if you pile on words instead of making it more precise it has, as a matter of fact, an exclusive tendency; it narrows the thing if you give a specific application to a general principle. If you keep your general principle sound you are much safer so far as its application is concerned than if you quote it as applying to the one particular grievance.

Dr. Ambedkar: That is true, but I do maintain that the question of interpretation will come in, and I should like whoever is going to handle this Report to understand that the sub-Committee did mean not to impose any disability on account of untouchability.

Chairman: In a case like that, if there is any doubt about it, I will take the opinion of the Committee and settle it. Do you persist, Dr. Ambedkar?

Dr. Ambedkar: I am afraid, Sir, I shall have to. My dissent might be noted, that I do wish that this should be made clear.

Chairman: There is a suggestion made that the word " distinction " should be substituted by the word " discrimination," so that it will read " without discrimination as to race, caste ", and so on.

Dr. Ambedkar: Yes, that would do it.

Chairman: That will be all right?

Dr. Ambedkar: That will be all right. I suggest at the end it should be " without discrimination."

Chairman: Quite. Then would you make that alteration, please. Then it will read " without discrimination ".

Dr. Ambedkar: Yes.

Chairman: That is a good amendment; the other, I think, would have been a bad one.

Mr. Joshi: In line 3 I want to add the word " economic ", so that it will read " safeguarding the cultural, religious and economic life ".

Chairman: How can you safeguard the economic life of a community in a constitution?

Mr. Joshi: There are certain rights which we have mentioned in the declaration of rights which was presented on behalf of the worker.

Chairman: Certain rights, but certain rights are not all economic rights.

Mr. Joshi: " Fundamental rights."

Chairman: " Fundamental rights safeguarding the cultural and religious life."

Mr. Joshi: I suggest " cultural, reilgious and economic life."

Chairman: You only want to safeguard part of the economic life. With regard to the religious life you want to safeguard it all.

Lord Reading: Is not that covered by the later words?

Chairman: Yes, and then may I draw your attention to the fact that it goes on: " without discrimiation as to the free exercise of economic, social and civil rights."

Mr. Joshi: But that is really intended to say that there will be no discrimination between the economic classes; that is the only thing which is intended in the last words; but the first words are for a declaration of fundamental rights safeguarding the cultural, religious and economic rights.

Mr. Chintamani: What exactly are economic rights?

Chairman: How on earth can you declare fundamental rights safeguarding the economic life of the people?

Mr. Joshi: Well, Sir, the fundamental rights which have been proposed by us are these: that it is the duty of every worker to give his best to his community, and it is the duty of the community to give him opportunities for work and training; that is one of the

rights mentioned by us. Secondly, we have mentioned that as to all workers there will be perfection in respect of their difficulties.

Chairman: Now supposing you put in a claim that a man is only being half trained as a carpenter; will that claim lie in a Court of law against the Government for not giving him full training?

Mr. Joshi: Well, Sir, we made it quite clear that the declaration of fundamental rights may not have legislative effect, but it certainly has a great moral effect; and these fundamental rights have found place in the constitution of Germany and several other European countries as well as countries in other parts of the world. Therefore, although they may not have legislative effect, they have got a great moral value, and they are found in other constitutions.

Chairman: No, really, believe me, they are not, in the way that you have put it, unless it is constitution drafted at the end of the eighteenth century, when we had no experience of the working of them; they have not been drafted in that way since. There is another point: would the members look at the whole thing with very critical eyes; otherwise you may make amendments with good intention but make a mess of the whole business.

How can you safeguard the economic rights of a community? These parts in which the amendment is proposed have got nothing whatever to do with individuals; they refer to fundamental rights safeguarding the cultural and religious rights of the various communities; and then, when you come to the individual, which is what is in Mr. Joshi's mind, economics does come in.

Mr. Joshi: The individual does not come in in my mind; what comes in my mind is the labour community.

Sir A. P. Patro: Who is labour?

Mr. Joshi: If you do not know who is labour, I think you will have to wait for some time. I am quite prepared to give a lecture on that subject.

Sir A. P. Patro: I cannot accept you as representing the labourer.

Mr. Joshi: But I am here.

Chairman: We will wait for the lecture.

Mr. Joshi: If you want one, I will give it.

Chairman: Is the point clear to your minds?

Lord Reading: Quite.

Chairman: Mr. Joshi's proposal is to put in a provision regarding the economic rights of a community.

Lord Reading: Economic life.

Mr. Joshi: Economic life.

Chairman: Yes, safeguarding the rights of the economic life of a community. I am not sure that I understand what it means.

I am doing my best to put it clearly. Do you agree that that should come in?

Members: No.

Chairman: Do you wish it to come in?

Sir A. P. Patro: No.

Mr. Joshi: Sir, my dissent should be noted.

Chairman: Then 3.

Dr. Ambedkar: Sir, as I understand, paragraph 3 summarises the demand put by the different communities before this Committee.

Chaiman: Yes.

Dr. Ambedkar: In view of that, I should like to suggest that the other demands made by the depressed classes specifically in their own interests, on account of the fact that their position differs somewhat from the position of the other minorities, should be added. I do not mean to say that they should be added as an accepted proposition by this Conference, but for the sake of completeness those demands should be put in. I would therefore suggest the addition of the following paragraph to this paragraph after the word " rights ": " The depressed classes also urged that untouchability, with all its consequent disabilities, should be abolished by law, and that they should be guaranteed free and unfettered enjoyment of their rights; and they also claim the right of appeal to the Governor-General and the Secretary of State in cases of prejudices or neglect of their interests."

Chairman: But you see, in so far as these suggestions can be made workable, they will come in in the details that will have to be worked out.

Dr. Ambedkar: I quite see that.

Chairman: Partly legislative and partly administrative.

Dr. Ambedkar: But what I would like to say is this, that in view of the fact that this paragraph tries to summarise what was put before this Committee by the different communities, what was put by the depressed classes, as something specifically for themselves, apart from what other communities needed, ought to come in by way of completion.

Chairman: But it says " without discrimination " and so on.

Dr. Ambedkar: Mr. Prime Minister, you will excuse me; it is one thing for the constitution to say that no man shall be discriminated against, and that every man shall be guaranteed the free enjoyment, and so on; but I know as a matter of fact that we are hard up against facts, and that people will not allow us to enjoy the rights which are given to us by the constitution. I am as certain of that as I am certain of my own existence. I do not want merely a paper guarantee. The whole community will be against us, and we shall certainly never enjoy one-tenth of what

is given to us. I therefore desire that the constitution should not only declare that we shall have specific rights that every community will have, but that the constitution should also provide ways and means by which we shall be protected in the exercise of those rights.

Chairman: The point is, supposing a legislature does not pass a law which will suit you, then the constitution has been broken.

Dr. Ambedkar: No. What I suggest is this: That in the memorandum which I have circulated I have suggested certain ways and means by which we think our rights could be protected in the matter of their exercise. The Committee here, for instance, may not agree that that is an appropriate way of doing it; the Committee may suggest that there are some other means of doing it. I am quite prepared and open for consideration of those other ways and means; but what I want to submit is this, that this draft ought to report that the depressed classes did suggest that they were not satisfied with the mere declaration that they were placed on an equality of footing with other communities; but they pressed that in actual working they needed protection of the free exercise of the rights given them by the constitution. I am not asking for anything more than that. That is by way of completion of the report. In the memorandum which I submitted you will see I do recommend a certain procedure for that.

Mr. Foot: The only difficulty which occurred to me, with every sympathy for Dr. Ambedkar, was that if you begin to put in a statement of your position, it would have to be a very full statement. Already we have upon the notes the claim that has been made, and the sympathetic adoption of it here referred to again at the end of paragraph 16. It seems to me perhaps there may be the risk that if you are going to put in any claims at all, you will not have it fully stated in this memorandum.

Dr. Ambedkar: I would just like to say as regards paragraph 16, the last two sentences refer to the depressed classes, and they are confined to the seats that are to be allotted to them. That is a different matter altogether. What I am stating is this, that the constitution may give me certain rights, but I know that 99 per cent. of the people in India are not going to allow me to exercise those rights. What is the use of those paper rights to me unless the constitution provides that if anyone infringes my rights he is liable to certain penalties? What I say is this. I do not press that the meeting should adopt my proposal. What I want is that the constitution should be made to complete as to cover what I have said on behalf of the depressed classes on this sub-Committee.

Chairman: We have every sympathy with your position, and are prepared to support it; but the difference between putting a paragraph in the constitution declaring for fundamental rights and the drafting of laws carrying out those fundamental rights is a real one. You cannot get into a constitutional declaration any

details of a law which is going to enforce it. What you have got to do is, when you get your representation, when you get your declaration of rights, not in detail, in your constitution, then, as a representative of your people co-operating with the other people in the Legislature you have to produce the law which you think carries out the declaration in the constitution, because if you put anything more by way of detail into your constitution and the constitution is not carried out in that respect, then the constitution is not carried out at all. So you will never get on in that way.

Dr. Ambedkar: My submission is this. I perfectly agree with you that this declaration of fundamental rights is of no consequence. I attach no importance to it myself personally, because, after all, what is important to an individual is not that his rights should be declared but that he should have the remedy in order to enforce those rights. That is the effective guarantee of the rights in the declaration, and therefore I want that the constitution should give me some means whereby I can get redress when I am wrong. It is no use merely saying that there is no " untouchability " and so on.

Chairman: As a matter of fact we have got the point clearly in our minds, so it need not be reiterated; but what Dr. Ambedkar says is that a declaration in the constitution is not good enough for him unless it is enforceable by law. That is so. In order to make it enforceable by law, laws must be passed creating the penalties and the crimes—the crimes first of all, and the penalties. You cannot create a crime of this kind, I think, not safely—I am in the hands of Lord Reading; he is a lawyer, I am not—you cannot, in drafting a general introductory clause to your constitution, create by that a crime which gives you more rights than those that you can claim under the constitution. Under the constitution you have got certain rights given to you, and I am not at all sure what is the position. Supposing a depressed class person was actually persecuted in violation of this declaration, could he not move for some redress in the Courts.

Lord Reading: Well, you have got to give him some remedy for it, of course. You must make it a misdemeanour.

Chairman: Can you do that in the constitution?

Lord Reading: No, I do not think so. If you will forgive me for a moment I do not think Dr. Ambedkar was pressing for that. As I understand it, he wants us to make a definite statement that he had put the claim forward, that he was not satisfied merely with the declaration of " free exercise," etc. What he wants also is that he drew special attention to the fact that that was no use to him unless he also had protection for an infringement of these rights, and he leaves it there. Then you have to consider what the remedy is hereafter. That is as I understood him.

Dr. Ambedkar: That is my position.

Chairman: Very well, that is understood. Certainly that can go in as a record of the claims made. It might go in something like this: " Dr. Ambedkar called attention to his demand for the inclusion in the constitution of special provisions safeguarding to the depressed classes the exercise of their rights." We will get a draft—something on those lines.

Lt.-Col. Gidney: May I just say one word here. I am not going to refer to the declaration of rights that I have submitted, but with regard to the words " cultural and religious life," might I suggest, as per the declaration that I put in, " cultural, educational and religious right," I have added educational because education and religion are so inseparable with my community that I would like that word to be put in.

Chairman: But is it not also inseparable from cultural? I think that it is covered, and then later on, so far as the individual is concerned, " economic, social and civil rights." It is very difficult to put in every word.

Raja Narendra Nath: " Civil rights " covers it, I think.

Chairman: That applies to the individual, and the " cultural rights " apply to the community. The question is, that 3 be accepted.

Sir A. P. Patro: May I ask that my dissent from this be noted in the Report.

Chairman: Just make a note, as I stated a few minutes ago.

Lord Reading: It is on the shorthand note.

Chairman: Now 4.

Raja Narendra Nath: It is in order to have the Report in conformity with the facts that I have brought this before the sub-Committee. I propose that at the end of paragraph 4 we should add: " It was also pointed out that separate electorates were originally a minority right, and that whilst they were of doubtful utility to the minorities in the past they would be positively harmful to them in an autonomous Province. The observations made on page 30 of the Nehru Report were quoted in support. It was therefore argued that separate electorates should not be continued in Provinces in which minorities objected to them, and should not be allowed to be used by majorities as a means of asserting their communal ascendancy over minorities."

That was the view I put forward. I do not say it was accepted. I do not force it upon others, but simply to bring forward the facts I want that put at the end of paragraph 4.

Chairman: The motion is that these words be added: " It was pointed out that separate electorates were originally a minority right, and that whilst they were of doubtful utility to the minorities in the past, they would be positively harmful to them in an autonomous Province. The observations made on page 30 of the Nehru report were quoted in support. It was therefore argued

that separate electorates should not be continued in Provinces in which minorities objected to them, and should not be allowed to be used by majorities as a means of asserting their communal ascendancy over minorities." Now, if I put that in, I must put the reply; and we cannot begin.....

Sir Muhammad Shafi: As I was going to point out, if individual views are going to be incorporated in the Committee's Report, then the contrary view should also be incorporated.

Raja Narendra Nath: I do not mind that.

Chairman: But I do.

Raja Narendra Nath: That is my view. I took about 50 minutes of the sub-Committee's time over my speech, and this is all the point that I made. I do not see why that should be omitted altogether. By all means put the contrary view if you like.

Sir A. P. Patro: If individual expressions of opinion are to be added in every Report, it will not be a Report at all. It is only a general reflection or summary of what took place. It cannot be what A and B and C said. All that could not be incorporated in the Report. The point of view expressed in the Report would be what is a general summary of the impression to be gained from the individual speeches. Therefore I would request Raja Narendra Nath not to press his view, otherwise every individual view has to be recorded in the Report. It will not be a Report. It will burden it and destroy the effect of the Report by the very weight of these individual statements.

Raja Narendra Nath: This was one view which was put forward, and I say that in order to bring the Report into conformity with the facts this view ought to be stated. That is all that I want.

Mr. Zafrullah Khan: The only report that could be in conformity with the facts would be the shorthand notes. You could put all that in.

Lord Reading: I should like to point out, if I may, that something of this kind arose in the Federal Structure sub-Committee. The Lord Chancellor started by taking down very freely all kinds of things that were suggested, but he had to tell us before lunch, when there was a great deal more to come, that he had already got three and a half times the volume of the Report in the notes he had to take of suggestions of this kind. There is, of course, no end to it.

Chairman: We really cannot put in individual views. So far as the Report is concerned, you must judge whether it really indicates the big issues that were placed before us, not the reasons why these issues were supported or opposed; because, if you start that, I must begin and go round the table and ask each of you individually and separately what are your views which you wish recorded under paragraph 4 and there will be no end to it.

Raja Narendra Nath: It is not my view, but the view of a large class I represent, and also the view of a large class of Muhammadans.

Sir Muhammad Shafi: It is not the view of any one of the Mussalmans present here.

Chairman: I will put it to you: Do you wish this Report to be altered in such a way that individual opinions may be entered if that is claimed by those who gave expression to them either in ten minute speeches or in fifty minute speeches? You do not wish that? Then that is agreed.

We pass to paragraph 4.

Sir Muhammad Shafi: With your permission, Mr. Prime Minister, I should like to make a suggestion with regard to paragraph 4. The second sub-paragraph of paragraph 4 begins with these words: " Whilst it was generally admitted that a system of joint free electorates was in the abstract the most consistent with democratic principles as generally understood ". Now, that is a recital of a fact, and that fact, if I may venture to say so, is not correctly stated, for none of us on this side is prepared to admit the correctness of this. I would, therefore, venture to suggest the addition of three words, which would make this unobjectionable from our point of view. I suggest that it should read: " Whilst it was generally admitted that a system of joint free electorates was in the abstract the most consistent with democratic principles as generally understood *in western countries.*" I shall have no objection if you will put that in.

Chairman: I understood that our Mussalman friends quite agreed that, if the conditions did exist, this would be a better method than the method which circumstances unfortunately force upon us.

Sir Muhmmad Shafi: I quite agree that if in India the same conditions existed as exist in western countries that would no doubt be true.

Sardar Ujjal Singh: The words " in the abstract " cover your point of view.

Chairman: Does not " in the abstract " cover you?

Sir Muhammad Shafi: It is in the Minutes; that will do.

Dr. Ambedkar: I wish to suggest an amendment to the second sub-paragraph of paragraph 4. After the words " depressed classes " I should like to have the words added " barring a short initial period ". It would read " and would be acceptable to the depressed classes barring a short initial period."

Chairman: I understood you accepted it provided there was adult suffrage?

Dr. Ambedkar: I said that for ten years we should have separate electorates whether there was adult suffrage or not.

Chairman: " and would be acceptable to the depresed classes after a transition period "?

Dr. Ambedkar: Yes.

Chairman: Do you agree that makes it more accurate?

Mr. Chintamani: Are we to delete the proviso "provided the franchise was based on adult suffrage "?

Chairman: No, we cannot alter the speeches that were made. But what Dr. Ambedkar said—he will correct me if I am wrong—was that if there is to be no adult suffrage then they must claim separate electorates, but if there is adult suffrage then, after a transition period, they would abandon them. I cannot allow the accuracy to be altered.

We will pass from paragraph 4. Is there anything on paragraph 5?

Paragraph 6 says: " Nomination was unanimously deprecated ". I rather gathered that that was so and I put this in to make sure.

To paragraph 7 there is an amendment. Raja Narendra Nath suggests that after the first two lines of paragraph 7 we should add these words: " It was also urged that seats reserved for a minority community should in no case be less than its proportion in the population ". If that amendment is made it will read: " Joint electorates were proposed with the proviso that a proportion of seats should be reserved to the communities. It was also urged that seats reserved for a minority community should in no case be less than its proportion in the population ".

Sir Muhammad Shafi: That has nothing to do with this paragraph.

Major Stanley: It comes in best in paragraph 5, after the words " fixed proportions of seats ".

Chairman: " Claims were therefore advanced by various communities that arrangements should be made for communal representation and for fixed proportions of seats ". That is paragraph 5. It would come in better there.

Raja Narendra Nath: Very well.

Chairman: Paragraph 5 says: " Claims were therefore advanced by various communities that arrangements should be made for communal representation and for fixed proportions of seats." After that would come your proviso.

Raja Narendra Nath: I am quite agreeable to that.

Chairman: Would that be all right, Lord Reading?

Raja Narendra Nath: I am quite agreeable.

Chairman: You agree that there should be an amendment to this effect. We may have to alter it. I will give you the amendment again as it is not in front of you. The amendment is: " It was also urged that seats reserved for a minority community should in no

case be less than its proportion in the population." That is so obvious.

Dr. Ambedkar: It is not always obvious, because there is such a scramble for weightage, and so on.

Chairman: No; but if it was said "shall not be more," then that would affect weightage; but if you say it shall not be less, that does not affect weightage at all; that leaves it where it is. But I would like to warn you, because I want to be quite impartial in this, that if any community has got, say, 13 per cent. of the population, it will be inconsistent with this declaration that it should be offered 11 per cent. of the representation.

Sir Muhammad Shafi: That is what I was going to say; that is the objection I was going to raise.

Lord Reading: It is only the record of a contention; that is all you want.

Chairman: We can put it in as a record. It will go in at 5.

Lt.-Col. Gidney: How does that affect a very small community?

Chairman: It is not going to affect it at all, because it is only a contention; it is not a finding of this Committee. 7; *Agreed.* 8; *Agreed.* 9; *Agreed.* 10; that is just a record. 11.

Mrs. Subbarayan: On No. 11 we would like a slight alteration to be made; in lines 7 and 8 instead of "it was suggested," we would like it to be "it was urged."

Chairman: That alteration is made: "it was urged."

Mrs. Subbarayan: We want it to read as follows: "it was urged that 5 per cent. of the seats in the first 3 Councils should be reserved for women and it was suggested that these should be filled by co-option." The second is a suggestion, Sir.

Chairman: "It was urged that 5 per cent." so-and-so, and "it was suggested that they should be filled by co-option." That is the alteration?

Mrs. Subbarayan: Yes.

Chairman: That alteration will be made, because you made the suggestion, and if you say that is what you said, that is final. Now 11. 12.

Dr. Ambedkar: Sir, I should like to have the following words added to paragraph 12 in the beginning: "The minorities and the depressed classes were definite in their assertion that they would not consent to any self-governing constitution for India unless their demands were accepted." And then you can proceed: "there was general agreement with respect to recommendations," and so on. Speaking for myself, I think I made it very clear at the time when I delivered my speech in this Committee that unless we were assured that we were safe in the new constitution, we could give no consent to any constitution involving the principle of responsibility. If other communities do not care to join in this, it would go as my own statement on behalf of the Depressed Classes.

Lt.-Col. Gidney: I join in that statement too, Sir.

Chairman: Of course, the statement as a matter of fact was made, and it was made in a representative way, not merely as an individual statement. But if that is put in in this report, you will observe the effect of it, that one or two of you will be able to say: "Our claims have not been satisfied." It is not a decision of this Committee, but it does put obstacles in the way of anything being done unless everybody says they are satisfied with what is being done. Whether you think it is wise to take that statement, undoubtedly made to the Committee, and put it in such a position as makes it necessary to record it in the report which the Committee sends to the Conference, is for you to say. I do not object at all, as a matter of record.

Lord Reading: It is rather difficult to see what part it plays in this particular paragraph; this is dealing with the Executive, and the only point which is mentioned about the new constitution is in regard to the successful working of it.

Dr. Ambedkar: My position is this, Sir, that speaking for myself, I do not merely make a statement, and I do not want the record merely to say that I made certain demands; I want the report also to record the strength of feeling that is in my mind behind this; that it is not merely a demand which I made merely to be accepted or rejected, but I said that the acceptance of these demands was conditional on the acceptance of this.

Lord Reading: I do not see how it can come in this paragraph at all.

Dr. Ambedkar: It may come in anywhere. As it was dealing with general agreements, I thought these few lines might come in appropriately at the top of this paragraph. If you do not think it is suitable, I have no objection.

Chairman: I do not think it can come in here; I do not see how you can work that in here. You could raise it again. It is really what we should call in a Bill before the House of Commons a new clause and not an amendment to a clause. 12.

Dr. Ambedkar: In the third line it reads in this way: "that the representation on the Provincial Executives of important minority communities, *i.e.*, Hindus, Muhammadans and Sikhs, was a matter of the greatest practical importance. . . . ." My amendment is this, that we should delete the word "important," because I do not want any discrimination made between minorities and minorities, that you should not mention any minority by name, and that if you are going to do so, then you must mention all the minorities.

Dr. Moonje: That is exactly what I was going to say.

Chairman: As a matter of fact, the reason why these words were put in is that they are in the report to which reference is made. What is the amendment? We are not going to put in

anything that you do not agree with. " That the representation on the Provincial Executives of minority communities "?

Dr. Ambedkar: Leave it there. Delete " Hindus, Muhammadans and Sikhs ".

Chairman: Let us see what it means. It would then read: " that the representation on the Provincial Executives of minority communities was a matter of the greatest practical importance for the successful working ", and so on.

Dr. Ambedkar: Yes.

Chairman: That means that every minority community, if it is 8, 9, 10 or 12, must have a representative upon the Executive.

Dr. Ambedkar: No; I would then add: " as far as possible leaving discretion to the Governor ". I should not like any community to be specifically mentioned.

Lord Reading: Surely you must look and see what this says: " There was general agreement with the recommendation of sub-Committee No. II (Provincial Constitution) ". Then it goes on to quote it.

Dr. Ambedkar: It should not.

Dr. Moonje: My suggestion was a small one, but perhaps it might meet Dr. Ambedkar's point of view. It was on the same lines: " important minority communities, *i.e.*, Muhammadans, Sikhs, Depressed Classes." That was my small amendment.

Lord Reading: Then the others will have to come in.

Sir A. P. Patro: The depressed classes are not Hindus? Will you cut off the depressed classes? With due respect, I say there are depressed classes who would simply revolt at the suggestion that they are not Hindus. In Southern India, if Dr. Ambedkar comes and says they are not Hindus, then I do not know what position Dr. Ambedkar will have in Southern India.

Dr. Ambedkar: We are not discussing that here.

Sir A. P. Patro: Therefore I say representation consistent with facts and experiences.

Chairman: I have referred to the report to which reference is made. " Hindus, Muhammadans and others " I am told was put in by way of illustration, and these words do not appear in the report.

Sir Muhammad Shafi: That is what I was going to say.

Chairman: Just one minute. The word " important " does —" that the representation on the Provincial Executives of important minority communities ". Therefore " important " will have to stand.

Members: Yes.

Chairman: But "Hindus, Muhammadans and Sikhs" will have to go out; they have no business to be there.

Dr. Ambedkar: Just before you go from that, Sir, I should like to draw attention to the words "working of the new constitution and it was also agreed that on the same grounds Muhammadans should be represented on the Federal Executive." The words "important minorities" should replace the word "Muhammadans" there—I mean, in keeping with what we are saying in the beginning.

Chairman: Oh, yes: "It was also agreed on the same grounds that"—

Dr. Ambedkar: — "they should be represented also on the Federal Executive."

Chairman: "That important minorities should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives or that, failing this, in each cabinet, there should be a minister specially charged," and so on. That is exactly what was put forward.

Lord Reading: Yes.

Chairman: Officially.

Rao Bahadur Pannir Selvam: I should say, "such representatives being specially charged with the duty of protecting minority interests." I urge this because of the demands made by the various communities to be given representation, and to meet the difficulty of having too many minor communities also to be catered for it was suggested that they might be all classed together and given one representative who will be in charge particularly of minority communities.

Chairman: There were two claims made. The claim was for communal representation, and then, failing that—supposing, in other words, that that was found to be impracticable—there was the claim that in each cabinet there should be a minister specially charged with the duty of protecting minority interests.

Rao Bahadur Pannir Selvam: It is the alternative that I object to, Mr. Prime Minister, and therefore this means that the whole paragraph might in future lead to this interpretation—that provided you saw that important minorities are satisfied—the other minorities would really be given no place at all at any time. It might even be construed as meaning that the constitution never intended them to have protection at all.

Chairman: It could not be construed in that way, if you read it; and, besides, it is only a statement of what was claimed. We are not passing this as our verdict. You are passing this as a correct record of the claims.

Chairman: 12.

Sir Muhammad Shafi: Mr. Prime Minister, how does this sentence now stand—"and it was also agreed that on the same grounds Muhammadans should be represented"?

Chairman: "Important minorities."

Sir Muhammad Shafi: I have no objection to the words "and on the same grounds Muhammadans and other minorities." I have no objection to that, but during the course of the discussions it was agreed that Muhammadans should be on the Federal Executive, and I am not prepared to agree to the elimination of the word "Muhammadans."

Mr. Joshi: I think that is a correct record, as Sir Muhammad Shafi says.

Sardar Sampuran Singh: I have no objection to the word "Muhammadans" remaining, and also "and other important communities," but that would be superfluous, because when you mention "important minorities" we think first of all of Muhammadans as the most important minority in India. That is the first one which comes, and I think, keeping that fact in view, there cannot be any other important minority in India if the Muhammadans are not one. Naturally they will always come the first, so that will be superfluous. So far as the general spirit is concerned I think in those words you come in most emphatically.

Mr. Joshi: But if that is only superfluous, and it satisfies you why not have it there to satisfy particular people.

Diwan Bahadur Ramachandra Rao: This is Federal Executive, not Provincial.

Chairman: It only applies to the Federal Executive.

Diwan Bahadur Ramachandra Rao: I am strongly against committing myself to the fact that all important minorities should be represented on the Federal Executive, because great embarrassment might come in by refusing representation. I agree with my friend that the position that was taken up was that the Muhammadans were the most important minority in India, and that they should be represented. That is a thing which I could really understand, but to commit ourselves here and now to the statement that all important minorities should be represented on the Federal Executive, I am sure, Sir, will destroy the constitution. I strongly object to that statement.

Chairman: As a matter of accurate recording, the use of the word "Muhammadans" is perfectly right.

Sir Muhammad Shafi: Federal stands on a special footing.

Mr. Joshi: We agree.

Chairman: "Muhammadans" stands.

Mr. Joshi: Yes. I agree to that.

Dr. Ambedkar: Then you must add to "Muhammadans," "and other important minorities."

Chairman: No, you cannot. That was the claim.

Dr. Ambedkar: May I not say so for myself? Speaking for myself, I speak on behalf of the depressed classes as well.

Mr. Joshi: It is not agreed. You did not make the claim.

Dr. Ambedkar: It is not a question of whether I did or not.

Chairman: Now, now we are doing business, and it is two minutes to eleven.

Dr. Moonje: I would ask, instead of the word "agreed," that we should say, "it was also claimed that on the same grounds," and so on.

Sir Muhammad Shafi: No, no, it was agreed. That is a matter of fact.

Dr. Moonje: I do not know what took place in the Federal Structure Committee.

Sir Muhammad Shafi: The record shows it.

Dr. Moonje: But here, of course, I do not agree with that point.

Sir A. P. Patro: That is accepted, and it goes to the next paragraph.

Dr. Moonje: A claim was put in.

Chairman: The statement was made that the Muhammadans should be recognised, and to that, according to the minutes, there was an agreement, and that has just been lifted out of the records.

Mr. Joshi: The records of this Committee?

Lt.-Col. Gidney: I made a distinct statement on this matter when we had this before the plenary session, and I made a statement to this effect—that it is all very well for the larger communities to demand certain things, but the minorities wanted some representation.

Chairman: That is in.

Lt.-Col. Gidney: This is only an alternative.

Chairman: Oh, no, it is not. The sentence gives an alternative, but it says the claim was made that there should be either representation of the minorities direct, or, failing that—that is, if that is impossible—then . . . . . .

Lt.-Col. Gidney: That is all we want.

Rao Bahadur Pannir Selvam: "Failing this" might be replaced by "if this should be found impossible."

Chairman: Yes, instead of "failing this," "if that should be found impossible." There is no reason why that should not be substituted, "if this should be found impossible."

Lord Reading: What is the difference? We are spending time over interchangeable phrases, that is all.

Sardar Ujjal Singh: Make provision for any other communities in the Federal Executive, and insert the words "important mino-

rities " there. We might make some provision, somehow or other, not necessarily, but provision must be there.

Chairman: May I bring you up against the hard facts of the situation. You cannot, on a Federal Executive, have every minority.

Dr. Ambedkar: Let me make my position clear. In the Provincial Constitution, what we have done is, we have placed an obligation upon the Governor to endeavour to do it. He is not tied down, but in the endeavour he should certainly be allowed the freedom to select even from other important minorities. We are not tying him hand and foot in the making of the Constitution. All we have done is that we place an obligation on him not to select, but we place an obligation upon him merely to make an endeavour. Surely that is not tying him down hard and fast, and I submit that after the word " Muhammadans " the words " other important minority communities " should come.

Chairman: No, we have passed that point. We are now at the second point.

Sir A. P. Patro: May I refer to paragraph 13?

Dr. Ambedkar: I would suggest that my dissent be recorded from paragraph 12.

Sardar Ujjal Singh: After the word " Muhammadans " " other important minorities " should be added.

Lt.-Col. Gidney: Why close it to the other minorites?

Chairman: I really must rule. As I have said already, we are not closing it to the other minorities. I am quite willing to discuss amendments on the words as they are, but really you must not raise false issues. This makes a claim that the other minorities shall also be represented, but if this should be found impossible —that alteration has been made—then there will be a Minister. That is an accurate record of the claims which were made. Paragraph 12 agreed.

Dr. Ambedkar: I think our dissent should be recorded.

Chairman: Very well. Paragraph 13.

Dr. Moonje: The following words appear in this paragraph, " . . . to reconcile the claims of the various communities to adequate representation in the Public Services." I suggest we should say " fair representation " and not " adequate representation."

Sir A. P. Patro: " Fair and adequate representation."

Chairman: These words are in, are they?

Dr. Shafa'at Ahmad Khan: Yes.

Chairman: That amendment is made. Paragraph 14.

Sir Muhammad Shafi: I think the word " reconcile " might be made more clear. I do not think the word " reconcile " makes the position clear.

Lord Reading: What do you suggest?

Chairman: This is not the authoritative pronouncement on Services.

Sir Muhammad Shafi: I am dealing with the word " reconcile."

Chairman: You had an example of it the night before last when I tried to reconcile you. Paragraph 14. There is an amendment.

Sir Hubert Carr: I should like to ask whether it is possible to make this a little more clear on behalf of the British community. In paragraph 2, the point is made as to how necessary it is that all minorities should have full confidence in the full constitution, and so on. As the claims of my community are, and have been generally admitted and agreed, I do not wish to suggest anything in the amendment which would import any question on other points. I think if this paragraph could be made fuller to take note of the points which have been, I think, agreed, it would make it very much easier for the British community to accept the Report as a whole without some of the reservations which I had to speak on yesterday. The problem we have is really a simple one. We only have to claim a few seats which have always been generously given to us, and which I think we have justified.

The civil and criminal law procedure which we have enjoyed, and which we shall enjoy with every one else except in one small matter, is another point to which we attach great weight, and we should like to have that mentioned. The endorsement of the claims which are mentioned here is really one method of giving effect to the rights which we claim. I do not think there was a note of dissent when I put forward these matters in Committee. I should very much like to see a paragraph stating that it was agreed. I think you have a copy of this, Mr. Chairman, " It was agreed that European British subjects should have the right of electing their representatives to the Legislature through separate electorates, and that the constitution would permit no changes to be made in the rights now enjoyed by them in the civil or criminal law."

Those are points which might be said to be accepted in paragraphs 3 and 1 of the Report; but it is the specific exceptions to which I attach considerable importance. Then include the paragraph which you have there.

H.H. The Aga Khan: You have the same rights as anyone else.

Sir Muhammad Shafi: In the eyes of the civil law we all stand on exactly the same footing.

Sir Hubert Carr: I will take out anything which is questionable.

Chairman: It is quite impossible for us at this late stage to adjust the difference between criminal rights and civil rights, and so on. The point is with regard to the word " urge " in line 2. It has been suggested that, as a matter of fact, it was agreed and not merely " urged."

Mr. Chintamani: The claims put forward by Sir Hubert Carr in his speech were not really discussed by the sub-Committee but it was engrossed with the Hindu-Muslim question to the exclusion of almost every other question. Some of these claims are non-contentious and everyone approved them, but other parts were open to discussion. Therefore I think it would be strictly accurate to say that all those claims were urged, not that they were accepted.

Diwan Bahadur Ramachandra Rao: Could not we say that they were carefully and sympathetically considered? I think an assurance should be given with regard to this.

Chairman: You see paragraph 14 refers only to a commercial treaty. There is nothing on the record beyond that. I certainly understood there was an agreement about it, although the word "urge" had got in. I think it would be a great mistake at this stage to mix up all these other things with this, because we should have to have another sitting of the Committee to deal with that. You could put in something at the end to say that other claims were put forward and they will be subject to the continuing arrangements which are going to be provided for—the arrangements for continuing discussion, and so on.

Lord Peel: If I may, Mr. Prime Minister, I should like to say that the big question of the communal difficulties really occupied the whole of the time of the sub-Committee. You will remember that the sub-Committee was adjourned for an expression of views *sine die* at about 3·30, and then that other matter was discussed, so that there was really no opportunity of discussing this very important question which Sir Hubert Carr has brought forward; and, though I cannot say the sub-Committee has agreed about it—because it was not fully discussed—I should like a note to be made of the fact that the opportunity was not given for that discussion.

Chairman: I do not think we can say these further things were agreed. The commercial treaty was mentioned.

Mr. Joshi: It was mentioned, but not agreed.

Chairman: Do you agree to the substitution of "agreed" for "urged"? (Cries of dissent.)

Mr. Chintamani: I am quite willing that it should be said that this was urged, and that the sub-Committee thought that most sympathetic consideration should be given to these claims, but that there was no time for a detailed discussion of the various items.

Sir Hubert Carr: Unless it had been agreed I should have had to press for some other method of dealing with these rights, because our community would not be content to leave it merely to sympathetic consideration; they are definitely rights which we claim to have and which we claim just as much as any other minority in India may claim rights.

Lord Reading: It is important something should be put in with regard to this, because it is a question affecting minority interests,

and if it cannot be put as agreed it ought to be recorded that the claim has been made. For example, so far as the special criminal rights affecting Europeans are concerned, that certainly ought to find its place somewhere. It is a most important thing for Europeans, and Indians have agreed about it. We have had committees which sat on it and arrived at a conclusion, but it ought to be stated because otherwise it will make Europeans very uneasy.

Sir A. P. Patro: The relevant point here is paragraph 14, with regard to the British commercial community. Both Sir Tej Bahadur Sapru and Mr. Jayakar referred to the agreement on these matters, and everyone else seemed to be in agreement with them. The question of the Criminal Procedure Code has not come up for discussion, and that is a different matter, but the question dealt with in paragraph 14 was dealt with, so far as I can remember, during the discussions in the preliminary session, and agreed to by all sections represented there. It would be correct, therefore, to say that there was agreement on that. With regard to the special procedure under the Criminal Procedure Code, I think that question was not discussed at all, for it was not raised then; and so far as that is concerned, I think it would be correct to say that it has now been urged that there should be special treatment.

Major Stanley: That is all that is asked.

Chairman: Let us divide the claim into two parts. There is first of all the commercial treaty, which I certainly understood was agreed. I should like to find out how many would object to the word "agreed" going in as regards the commercial treaty only. I will deal with the criminal procedure later. The only question that really seemed to come before us in a serious and full way was that of the commercial interests, and I understood we agreed to the statement of that part of the case. How many would object to the word "agreed" going in?

Mr. Sastri: As far as my recollection goes, while there was a general desire that their rights should be guaranteed we were not agreed as to the means of doing so. I remember Sir Tej Bahadur Sapru suggesting the point could be met by a proper definition of citizenship. Mr. Jayakar and others referred to the subject, but they did not mention at all a reciprocal treaty with Great Britain.

Lord Reading: That was in the Federal Structure sub-Committee—the other sub-Committee.

Mr. Sastri: If there was an agreement, that agreement refers only to the point raised in the Federal Structure sub-Committee, because it was there that Sir Tej Bahadur Sapru and Mr. Jayakar spoke. It was not on this subject at all. In the Minorities sub-Committee I remember Sir Hubert Carr mentioned this point, but not a speech was made about it; nobody referred to it at all except himself. To say it was agreed would be to go too far, I think, so far as the facts are concerned.

Chairman: It refers only to the point about the commercial treaty.

Mr. Sastri: Even that was not agreed; nobody else referred to it.

Chairman: I thought a murmur of agreement went round, and that it was not referred to because it was supposed to be accepted. How many would object to the word "agreed" being put in instead of "urged"? (Five or six members raised their hands.)

Lord Reading: I do not think it ought to be put in as agreed, because there are other ways of dealing with it.

Chairman: Then we will leave it as "urged"; "On behalf of the British Commercial community it was agreed that by a commercial convention concluded between Great Britain . . ." and so on.

Mr. Wedgwood Benn: We might say "guaranteed by a convention or otherwise".

Chairman: "It was agreed that by a commercial convention concluded between Great Britain and India or otherwise"—would you agree to that? Then that form of words will go in.

With regard to the other part of the scheme, we can say that in view of the time at our disposal it was found impossible to consider the arrangements suggested, and it has been remitted for sympathetic consideration later on.

Lord Reading: Yes, that is quite right.

Chairman: Do you agree to the gist of that?

Mr. Chintamani: Are you referring to this proposed amendment?

Chairman: No, I am now proposing an addition with reference to the criminal side of the question. I am suggesting that we should just record the claim which has been made, and then say that owing to the shortness of time and the pressing nature of other business it was impossible to consider it, and that it has been referred for further sympathetic consideration.

Sir Hubert Carr: I am grateful for that reference, but this is really a point which affects the individual in India and certain rights he partly gave away in a friendly discussion in 1922. He will feel very sore if that question is now going to be put aside for sympathetic consideration. In 1922 we fixed on the present procedure by common agreement, and I think everybody agreed with the arrangement then made. I do not think that is a point we could be satisfied to leave for sympathetic consideration.

Sir A. P. Patro: It was not discussed at the meeting.

Chairman: If this is going to be discussed now I must adjourn this meeting, and I do not know what the result will be. We are already twenty minutes late for the meeting of the full Committee, but I am in your hands in the matter.

Sir Hubert Carr: You asked if anyone would object, and I do not think anyone can object to that. We have had it for the last eight years on a mutual arrangement.

Sir Provash Chunder Mitter: You confine yourself only to criminal procedure?

Sir Hubert Carr: Only to that.

Chairman: You want it to be put in the constitution that no alteration shall be made either for the improvement or the worsening of the situation.

Mr. Joshi: I object to that; it means asking for a perpetual restriction on the power of the Legislature, and I object to it.

Chairman: Now I must get a decision from you, because we must get on. Do you agree? There can be no opposition at all to a record of the fact that the claim was put in.

Sir A. P. Patro: Yes, there is no objection.

Mr. Joshi: No objection.

Chairman: But, then, unless we are going to have a meeting to discuss it, it can only be referred to; it cannot be accompanied by a statement of agreement or settlement one way or the other.

Lord Peel: I think we ought to have another meeting in this case.

Chairman: Very well, then, we must have another meeting to discuss it, and you cannot finish on Monday.

Sir Hubert Carr: I am very sorry, Sir, but it really is a point of importance.

Lord Reading: I do not know whether we might ascertain whether there is any real difference of opinion on this, even though it has not been discussed, because all of us are aware of what happened. There was a Committee appointed on which Sir Tej Bahadur Sapru I remember certainly sat, and a number of Indian gentlemen, for the purpose of deciding it. An agreement was arrived at and it has worked ever since.

Lt.-Col. Gidney: I was on that Committee.

Lord Reading: That was in 1922 and no difficulty has arisen since. All I understand Sir Hubert Carr wants is that what was decided then should be continued and should now be accepted as agreed. I cannot myself conceive that there can be any question about it, and I would suggest, for the purpose of getting through with this, that that part is agreed as to the criminal side which has already been the subject of a Committee and agreed between Indians and Europeans. It makes a bad impression if it goes out here that you will not agree to that.

Sir Pravash Chunder Mitter: Instead of postponing it, I think we might agree.

Chairman: On the criminal side.

Sir Pravash Chunder Mitter: Yes, only on the criminal side.

Sir Hubert Carr: I am not particular about the wording, but the recognition is really vital.

Chairman: Well, do you agree to the substance of what Lord Reading suggests going in?

Members: Yes.

Chairman: Then that is agreed to.

Members: Yes.

Chairman: Then we will see to the substance; but the words which have been moved and put in front of me go a great deal further than that.

Lord Reading: I think they go a great deal too far. I was only asking it with regard to the criminal rights; I cannot ask for more.

Chairman: Very well. 14 as amended. 15.

Dr. Ambedkar: Now, Sir, the amendment which I moved at an earlier stage I think may fitly go in in paragraph 15, at the end: "The minorities and the Depressed Classes were definite in their assertion that they would not consent to any self-governing constitution for India unless their demands were accepted."

Chairman: I think you had better move that as a separate clause, as I said before, because you must not mix that up with the narrower point of Hindu-Muslim agreement. Then you can move an overriding clause covering the whole of the document. 15. 16.

Sir Muhammad Shafi: Mr. Prime Minister, was there any discussion on the sub-Committee?

Chairman: On what?

Sir Muhammad Shafi: The sentence begins: "the discussion on the sub-Committee has enabled—"

Lord Reading: The third word ought to be "in" not "on."

Chairman: Yes, "the discussion in." 16.

Sir Muhammad Shafi: There is one suggestion I should like to make on 16, which says "It has also been made clear that the British Government cannot with any chance of agreement impose upon the communities any change in electoral principle which in some feature or other would be met by their opposition." I suggest that the words "change in" should be eliminated. They are unnecessary and are liable to be misunderstood. I suggest it should read "agreement imposed upon the communities any electoral principle which in some feature or other."

Chairman: The point really was that it was suggested that we should change the present electoral system.

Sir Muhammad Shafi: But that is liable to be misunderstood.

Chairman: The point is that that indicates a *status quo;* but I have no objection at all to taking the words out. You suggest that it should read "an electoral principle which in some feature or other"?

Sir Muhammad Shafi: Quite.

Chairman: I am quite willing that that should be so, if that helps. " Any change in " comes out, and " an " takes its place. 16 as amended. 17 is the paragraph that is added.

Mr. Joshi: On paragraph 17, Sir, I do not approve of linking up labour and non-Muslims. It really makes the position of labour very difficult. If you put in non-Muslims and labour together, and Muslims on the other side, and bring about equality, it gives an inducement to the non-Muslims to oppose it.

Chairman: Then you suggest that the words " and labour " should come out.

Mr. Joshi: My amendment is that the words " and labour " should be taken out.

Chairman: Yes, I agree to that; I accept that. Now 17.

Sardar Sampuran Singh: I point your attention Sir, to the words in the 4th line of this paragraph: " The point of disagreement was narrowed down to the allocation of one seat in a House of 134." I would request the deletion of this sentence, for two reasons. First of all, I do not admit its correctness, My second reason is that the meeting was informal and without prejudice, and this sentence as it stands prejudices our cause, because as a matter of fact the proposal was put but it was never agreed to.

Chairman: If one of the sides to the controversy says that this sentence prejudices their cause, then I think that is final, certainly so far as I am concerned. Because nothing that happened that night must be used to prejudice the cause of anybody who took part in the discussion.

H.H. The Aga Khan: The whole paragraph should be deleted.

Sardar Sampuran Singh: Yes the whole paragraph should be deleted.

Chairman: Do you want the whole paragraph deleted?

Sardar Sampuran Singh: Yes, the whole paragraph.

Chairman: I think the first sentence and the final sentence could remain.

Dr. Moonje: Yes, that would remain.

Sir Muhammad Shafi: The whole paragraph should go out.

Chairman: It is only a record. 17 is deleted. Now 18, which will then become 17. That this Report be presented to the Committee of the whole Conference. Those in favour? On the contrary? That is carried. Then it will go to the Committee of the whole Conference.

Dr. Ambedkar: Sir, there is my amendment.

Chairman: I beg your pardon; I am so sorry.

Dr. Ambedkar: I should like to have this amendment put in as a separate paragraph after 16.

Chairman: Make it the last paragraph?

Dr. Ambedkar: Yes.

Chairman: Then that is the overriding paragraph.

Dr. Ambedkar: My amendment is this: " That the minorities and the Depressed Classes were definite in their assertion that they would not consent to any self-government constitution for India unless their demands were accepted."

Chairman: As a matter of fact that was said, and it was said in a responsible way; it was not merely an individual expression of opinion.

Dr. Ambedkar: I think it should be in.

Mr. Joshi: I think labour cannot be regarded as a minority for that statement.

Chairman: I cannot rule it out.

Dr. Ambedkar: I would accept the words: " unless their demands are accepted in a reasonable manner."

Chairman: That makes it meaningless.

Dr. Ambedkar: Or " their reasonable demands are accepted."

Mr. Zafrullah Khan: Does anybody suppose that if the demands are not met in a reasonable way they are going to be pleased?

Mr. Foot: It is only the record of a claim.

Chairman: It is only the record of a claim. That that paragraph should be added as paragraph 18, a new paragraph.

Sir Provash Chunder Mitter: In that case a further addition should be made to say whether they would come into the responsible parliament or not.

Chairman: No, they did not put that in their claim.

Sir Provash Chunder Mitter: They may not have done, but as we are going to add that, I say we ought to add something more.

Chairman: Your observation just made will be noted.

Sir Provash Chunder Mitter: All right, Sir.

Chairman: Now, that this be reported to the Committee of the whole Conference. Those in favour? On the contrary? That is carried. Thank you very much for the way in which you have attended these meetings.

Sir A. P. Patro: I should like to thank you, Sir, for your very great patience, and though your patience has been tried to the extreme limit, I think you have managed the matter in so statesman-like a way that we are extremely grateful to you.

Sardar Sampuran Singh: I associate myself with that.

(The sub-Committee rose at 11-25 a.m.)

Sub-Committee No. III (Minorities).

REPORT PRESENTED AT MEETINGS OF THE COMMITTEE OF THE WHOLE CONFERENCE, HELD ON 16TH AND 19TH JANUARY, 1931.

(With an amendment passed by the Committee of the whole Conference on 19th January, 1931.)

1. The sub-Committee was set up to consider the claims of minorities, other than those incidental to the subjects referred to other Committees and was composed of the following members:—

Prime Minister (*Chairman*).
Sir W. A. Jowitt.
Lord Peel.
Major Stanley.
Lord Reading.
Mr. Foot.
H.H. The Aga Khan.
Maulana Muhammad Ali.
Dr. Ambedkar.
Sir Shah Nawaz Bhutto (after the death of Maulana Muhammad Ali).
Sir Hubert Carr.
Mr. Chintamani.
Nawab of Chhitari.
Mr. Fazl-ul-Huq.
Mr. Ghuznavi.
Lieut.-Col. Gidney.
K. B. Hafiz Hidayat Husain.
Mr. Joshi.
Sir P. C. Mitter.
Dr. Moonje.
Raja Narendra Nath.
Rao Bahadur Pannir Selvam.
Sir A. P. Patro.
Mr. Paul.
Mr. Ramachandra Rao.
Mr. Shiva Rao.
Sir Sultan Ahmed.
Sir M. Shafi.
Sardar Sampuran Singh.
Mr. Sastri.
Sir C. Setalvad.
Sir Phiroze Sethna.
Dr. Shafa'at Admad Khan.
Begum Shah Nawaz.
Rao Bahadur Srinivasan.
Mrs. Subbarayan.
Sardar Ujjal Singh.
Mr. Zafrullah Khan.
Captain Raja Sher Muhammad Khan and Nawab Sir Abdul Qaiyum (after the departure of Sir Sultan Ahmed and the Nawab of Chhitari).

2. The sub-Committee felt that the first task to which it should address itself was to have an authoritative statement of claims put in by the representatives of each community with proposals as to how their interests should be safeguarded. Opinion was unanimous that, in order to secure the co-operation of all communities, which is essential to the successful working of responsible government in India, it was necessary that the new constitution should contain provisions designed to assure communities that their interests would not be prejudiced; and that it was particularly desirable that some agreement should be come to between the major communities in order to facilitate the consideration of the whole question.

Although this was very nearly accomplished, it has not yet succeeded, but the negotiations are to be continued both here and in India.

3. One of the chief proposals brought before the sub-Committee was the inclusion in the constitution of a declaration of fundamental rights safeguarding the cultural and religious life of the various communities and securing to every individual, without discrimination as to race, caste, creed or sex, the free exercise of economic, social and civil rights. (Mr. Joshi objected to the omission of reference to the economic rights of the various communities. Dr. Ambedkar called attention to the necessity of including in the constitution sanctions for the enforcement of the fundamental rights, including a right of redress when they are violated.)

4. The possibility was expressed that under certain conditions the election of the Legislatures might be from a general register, but no agreement was come to regarding these conditions.

Whilst it was generally admitted that a system of joint free electorates was in the abstract the most consistent with democratic principles as generally understood, and would be acceptable to the Depressed Classes after a short transitional period provided the franchise was based on adult suffrage, the opinion was expressed that, in view of the distribution of the communities in India and of their unequal economic, social and political effectiveness, there was a real danger that under such a system the representation secured by minorities would be totally inadequate, and that this system would therefore give no communal security.

5. Claims were therefore advanced by various communities that arrangements should be made for communal representation and for fixed proportions of seats. It was also urged that the number of seats reserved for a minority community should in no case be less than its proportion in the population. The methods by which this could be secured were mainly three: (1) nomination, (2) joint electorates with reservation of seats, and (3) separate electorates.

6. Nomination was unanimously deprecated.

7. Joint electorates were proposed, with the proviso that a proportion of seats should be reserved to the communities. Thus a more democratic form would be given to the elections, whilst the purpose of the separate electorate system would be secured. Doubts were expressed that, whilst such a system of election might secure the representation of minorities, it provided no guarantee that the representation would be genuine, but that it might, in its working, mean the nomination or, in any event, the election of minority representatives by the majority communities.

It was pointed out that this was in fact only a form of community representation and had in practice all the objections to the more direct form of community electorates.

8. The discussion made it evident that the demand which remained as the only one which would be generally acceptable was separate electorates. The general objection to this scheme has been subject to much previous discussion in India. It involves what is a very difficult problem for solution, *viz.*, what should be the amount of communal representation in the various Provinces and in the Centre; that, if the whole, or practically the whole, of the seats in a Legislature are to be assigned to communities, there will be no room for the growth of independent political opinion or of true political parties, and this problem received a serious complication by the demand of the representative of the Depressed Classes that they should be deducted from the Hindu population and be regarded, for electoral purposes, as a separate community.

9. It was suggested that, in order to meet the most obvious objection to the earmarking of seats to communities, only a proportion should be so assigned—say 80 per cent. or 90 per cent. —and that the rest should be filled by open election. This, however, was not regarded by some of the communities as giving them the guarantees they required.

10. The scheme proposed by Maulana Muhammad Ali, a member of the sub-Committee, whose death we deplore, that, as far as possible, no communal candidate should be elected unless he secured at least 40 per cent. of the votes of his own community and at least 5 or 10 per cent., according to arrangement, of the votes of the other community, was also considered. It was, however, pointed out that such a scheme necessarily involved the maintenance of communal registers, and so was open to objections similar to those urged against separate electorates.

11. No claim for separate electorates or for the reservation of seats in joint electorates was made on behalf of women who should continue to be eligible for election on the same footing as men. But, in order to familiarise the public mind with the idea of women taking an active part in political life and to secure their interim representation on the Legislature, it was urged that 5 per cent. of the seats in the first three Councils should be reserved for women, and it was suggested that they should be filled by co-option by the elected members voting by proportional representation.

12. There was general agreement with the recommendation of sub-Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that, on the same grounds, Muhammadans should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible, in each Cabinet there should be a Minister specially charged with the duty of protecting minority interests.

(Dr. Ambedkar and Sardar Ujjal Singh would add the words "and other important minorities" after the word Muhammadans in line 6.)

The difficulty of working jointly responsible Executives under such a scheme as this was pointed out.

13. As regards the administration, it was agreed that recruitment to both Provincial and Central Services should be entrusted to Public Service Commissions, with instructions to reconcile the claims of the various communities to fair and adequate representation in the Public Services, whilst providing for the maintenance of a proper standard of efficiency.

*14. On behalf of the British commercial community it was urged that a commercial treaty should be concluded between Great Britain and India, guaranteeing to the British mercantile community trading rights in India equal to those enjoyed by Indian-born subjects of His Majesty on the basis of reciprocal rights to be guaranteed to Indians in the United Kingdom. It was agreed that the existing rights of the European community in India in regard to criminal trials should be maintained.

15. The discussion in the sub-Committee has enabled the Delegates to face the difficulties involved in the schemes put up, and though no general agreement has been reached, its necessity has become more apparent than ever.

16. It has also been made clear that the British Government cannot, with any chance of agreement, impose upon the communities an electoral principle which, in some feature or other, would be met by their opposition. It was therefore plain that, failing an agreement, separate electorates with all their drawbacks and difficulties, would have to be retained as the basis of the electoral arrangements under the new constitution. From this the question of proportions would arise. Under these circumstances, the claims of the Depressed Classes will have to be considered adequately.

17. The sub-Committee, therefore, recommend that the Conference should register an opinion that it was desirable that an agreement upon the claims made to it should be reached, and that the negotiations should be continued between the representatives concerned, with a request that the result of their efforts should be reported to those engaged in the next stage of these negotiations.

---

* The Committee of the whole Conference at their meeting on 19th January, 1931, substituted the following for paragraph 14:—

"At the instance of the British commercial community the principle was generally agreed that there should be no discrimination between the rights of the British mercantile community, firms and companies, trading in India and the rights of Indian-born subjects, and that an appropriate convention based on reciprocity should be entered into for the purpose of regulating these rights.

It was agreed that the existing rights of the European community in India in regard to criminal trials should be maintained."

18. The Minorities and Depressed Classes were definite in their assertion that they could not consent to any self-governing constitution for India unless their demands were met in a reasonable manner.

Signed on behalf of the sub-Committee,

J. RAMSAY MACDONALD.

St. James's Palace, London.
16th January, 1931.

APPENDIX I.

SUB-COMMITTEE No. III.

(MINORITIES.)

THIS LETTER TO THE PRIME MINISTER FROM THE LATE MAULANA MUHAMMAD ALI WAS DICTATED AND REVISED BY HIM, THOUGH NOT ACTUALLY DESPATCHED, BEFORE HIS DEATH. IT WAS CIRCULATED TO THE MINORITIES SUB-COMMITTEE AT THE REQUEST OF THE PRIME MINISTER.

HYDE PARK HOTEL,
LONDON,
1st January, 1931.

To The Prime Minister.

SIR,

It is with a desire to place my views on record before His Majesty's Government and before the British Parliamentary Delegates, as well as the Indian Delegates (who to some extent already know my views), that I have solicited the favour of your kindly sending me my old friend Sir Geoffrey Corbett of Chhindwara fame to be present when notes could be taken down of what I said on the subject of my views about minorities of which Committee I am a member.

In the first place it is a misnomer to call the Hindu-Muslim question a question of minorities. There are certainly minorities in India, and we must provide for them in such a way that they should feel that the future Government of India is not going to be a government only of one or two communities, but the government of all Indians irrespective of creed and caste. Nevertheless the one hitch in the way of the recognition of India's responsibility with a government of her own is the question not of these minorities but the deep-seated differences that divide the Hindus and Muslims. The fact is so obvious that I need not go into history, nor even present statistics, but I wish to emphasise one or two points which will distinguish the case of Hindus and Mussulmans from the case of the minorities. First of all the Mussulmans ruled over India from the beginning of the eight century to about the middle of the nineteenth in one way or another and in one region or another, which no other community can claim in the same manner. The Sikh rule for a generation in the solitary province of the Punjab, the result of an accident—I say this without any derogation of the valour of the Sikhs and of the high respect I feel for their organisation as a panth—nor the depredations of the Mahrattas and their confederacy, are any parallel to the history of the Mussulmans in India. Whether by conquest or by diplomacy the Muslim rule had passed finally from the hands of the Mussulmans to those of the British, barring, of course, the rule of the Indian States, many of which remain from time immemorial, great and distinguished Hindu principalities tracing their origin even from the sun and the moon. Whatever the relations of the Mussulman power as suzerain or as the paramount power to these Hindu States, there is not the least doubt that they retained not only for the most part a deep feeling of loyalty towards the Muslim power, but also a degree of independence which they have more recently lost since the transference of Muslim power into British hands. Other States are, of course, the creation of the times during the break-up of the Mughal Empire which have been recognised by the British. Some, like Hyderabad, were larger powers at the time of the original treaties than the East India Company of which they became faithful allies and others were smaller, but with that I am not at present concerned.

What I desire to sketch is that rightly or wrongly the Mussulman community ruled over India in one way or another from the eighth to the middle of the nineteenth century in some part of the country or another and that no other community has anything like that record.

A very important result of that with which we have to deal to-day is the feeling created by the record of Muslim rule for so long over so large a part of India. There is hardly a community that has not a real or an imaginary grievance against the old Muslim rulers and what we know of human nature elsewhere brings it home to us that even to-day there is a feeling of " revanche " harboured against the Mussulmans in the minds of some Hindus and some members of other communities which is not the case against any other community whether Sikh or Mahratta or Rajput. It is with this feeling that we must deal, and against which we must provide safeguards for the future when framing a constitution for an ideal Indian Government in which all would feel safe, equal and free.

The next consideration is that the Mussulmans constitute not a minority in the sense in which the last war and its sequel has habituated us to consider European minorities. The League of Nations deals with minorities and our Indian savants and professors easily borrow maxims from the League of Nations and its dealings with minorities and with mandates and want to guide India from Geneva when really it is India itself that can provide far better guidance for Geneva. A community that in India alone must now be numbering more than 70 millions cannot easily be called a minority in the sense of Geneva minorities, and when it is remembered that this community numbers nearly 400 million of people throughout the world, whose ambition is to convert the rest of mankind to their way of thought and their outlook on life, and who claim and feel a unique brotherhood, to talk of it as a minority is a mere absurdity.

Keeping these two main facts in mind let us now proceed with the problem that we have before us. It was proposed by a member of the Hindu Mahasabha in the Round Table Conference delegation that the Prime Minister should act as an arbitrator between the two communities, which was no doubt very flattering to the Prime Minister, but which would have made his position far too invidious, and he naturally declined the offer with thanks, and I feel certain that he must have seen through the motive that prompted the suggestion. We have heard suggestions of the matter being referred to the League of Nations. That would mean washing the dirty linen of India before the whole world. As it is, we are disgusted with the fact that the Indian Round Table Conference has been made the *Dhobi Talao* (the washerman's tank) of Indian communalism. This question should have been settled in India. We who worked for ten years through thick and thin with Gandhiji pressed that upon him, but the desire of retaining Hindu popularity for himself and for Pandit Motilal Nehru (who, I am sorry, are absent) prevented a settlement. Sir Tej Bahadur Sapru tried his utmost to have a Hindu-Muslim settlement when the Congress at our urgent request in December, 1928, failed to do so, and Sir A. P. Patro was most keen. But the Hindu Mahasabha pretended to share this desire with the Liberal Hindus and the Mussulmans at first and after postponing meeting after meeting absolutely refused to take any part in the Conference at Bombay and Dr. Moonje was quite frank about his refusal to do anything to arrive at a settlement in India before the Round Table Conference. The Congress followed the Hindu Mahasabha in refusing even to come to the Round Table Conference for a settlement when a settlement was inevitable before an Indian constitution could be framed. But three members of the Hindu Mahasabha nevertheless came over, and in spite of every effort of Mussulmans and the Hindu Liberals have defeated the settlement so far. It is not for me to say how much they have usurped in all these conciliatory talks both among the Hindus and Mussulmans themselves and with the Prime Minister. I think the Prime Minister can judge that better for himself. Now that a formal committee has been formed for this purpose it is essential that the case for a settlement should be clearly stated.

In the first place, I would like with the greatest courtesy and friendliness to warn the Prime Minister that it is not a case of the Punjab or Bengal, as he seems to imagine, nor of reducing the figure of 100 in the Punjab to 100 or anything like it as he seems to think when he was making his conciliatory efforts at The Chequers. The entire question is, as I suggested in my speech in the Plenary Conference, that for the first time in the history of India we intend to introduce into India majority rule, and those who have been usurping the control of the destinies of those called Hindus for so many thousands of years do not want that there should be any majority Indian or Hindu except that which they can control precisely as they have controlled the Hindus for thousands of years. Let me add that there is one important difference. Sir John Simon is somewhat out of date when he refers with the late Sir Valentine Chirol to Brahmin rule. The Brahman had at least taught the people and had at least the mistaken notion that he brought salavation to people in the next world. The small monopolistic caste that desires to remain in control of the destinies of the Hindu community and that being the majority community, of the Indian nation as a whole through it—is the caste not so much of Dr. Moonje and Raja Narendra Nath, but of the Banya who has no conception of the salvation of anybody in the next world, nor even of the teaching of anyone in this. I am more anxious than any Indian perhaps to get rid of the foreign incubus, if I may be forgiven to say so, of "a nation of shopkeepers" controlling our destinies. But as I wrote to His Excellency the Viceroy in reply to the invitation of His Majesty's Government to me to this Conference I do not wish to create a home-made incubus of a *caste* of shopkeepers of our own. To my mind most of the agitation to-day is being financed, and partly for selfish reasons by the banias of Bombay and Jujrat, and although I have always laughingly said I do not care a tuppenny damn for ¼ or ⅛, the fight to-day is not so much for the freedom of India as for ¼ against ⅛. This may be entirely justified but it is not the fight for India's freedom in its larger sense.

Now to deal with the Hindu-Muslim problem. It is not a provincial question. In every province Hindu and Muslim sentiment vis-a-vis each other is more or less the same. The Mussulmans lost the control of India nearly three generations ago and the British gained it mostly from the Mussulmans, though to some extent from the Mahrattas who were the Mayors of the Palace in Delhi and partly from the Sikhs in the Punjab whom the British themselves encouraged to rule there against the Mussulmans because of their own war with Afghanistan. Now India want to regain that control, and the Mussulmans as we showed ten years ago have not been lacking in self-sacrifice for this purpose. To-day some Mussulmans are still taking part in the Congress movement, but they are men who are doing it more out of the habit of freedom that we ourselves helped to create ten years ago, or out of fashion than otherwise. Many have kept away from the movement of Civil Disobedience as they had kept away from Non-co-operation ten years ago, even when Turkey was involved in the question. Without exaggerating our own importance we can say that it is not these people, many of whom have been selected as delegates to the Indian Round-Table Conference by His Majesty's Government or by the Government of India, or by local Governments and officers—whoever does it—that have exercised much influence in keeping the Mussulmans away from joining the Congress again as they did with us ten years ago. Even though we have to say it, it is we who had to fight the battle practically in every province, and to a very large extent indeed we succeeded in keeping the Mussulmans out, because we showed to them that the last movement was a truly national movement, while in the present movement I regret to have to say in their absence, Gandhiji and Pandit Motilal Nehru have both surrendered for the sake of their popularity to the Hindu Mahasabha. Now that we have come here, I am the only representative of my party—in spite of my long correspondence with His Excellency the Viceroy on the subject while I was lying ill in India before the final selection was made—to represent it in the Round Table

Conference, and more than any one else among the Mussulmans it will be I—and of course my brother—who on our return will be asked by the millions of Mussulmans what we have brought back for the Mussulmans. Well, we want to go back not with separate electorates only, nor with weightage only for the Mussulmans but with freedom for India including freedom for the Mussulmans and unless we can secure that I can assure the Prime Minister that the Mussulmans of India will join the Civil Disobedience movement without the least hesitation no matter what we may say and what the other Muslim Delegates may say.

Freedom for India is not separate electorates, though, being one of the authors of the separate electorates in 1906, I shall be the last to surrender them. Let me first say what is the use of separate electorates. A separate electorate gives to the Mussulman client in the case he is fighting the counsel that he selects himself and can trust. In every law court every client is permitted to do that even though some times he is provided with counsel at Government expense. The other party is certainly never allowed to choose his counsel for him. If there had been an independent and impartial judge all that we would have needed would have been a trustworthy counsel, and that was just what was provided a generation ago for us so wisely by Lords Morley and Minto. There was no idea in the mind of Lord Morley to give India anything like a Parliamentary British Government. There was the official bloc. There was in the Government of India the British official majority and it was admittedly kept there to show that there was no idea of the introduction of Parliamentary Government into India. Each community presented its case as a client before the judge and it was the judge that decided. We could only influence, never guide and advise him. Therefore all that was needed was a trustworthy counsel selected by the client himself, which we did through the separate electorates.

Even then somehow by accident, if not by design, Lord Minto had provided not only for the needs of the present, but also something for the prospects of the future. The separate electorates had been provided only to *supplement*, though to a very large extent, the deficiency that the Mussulmans were expected to encounter through the narrowness of the Hindu majority in their representation through the general territorial electorates. Lord Morley had not deprived the Mussulmans of their share in the mixed electorates themselves. That was a fatal mistake that was made at the urgent suggestion of our Hindu friends in 1916 at Lucknow when we two brothers were interned in Chhindwara and could take no part in the politics of the Lucknow Muslim League and the Congress. For the first time separate electorates became the only resource for Muslim representation.

Another grave mistake that was then made, for which the Mussulmans have now been crying their eyes out for the last fourteen years was the substitution of Muslim minorities in the Punjab and in Bengal for the small Muslim majorities. Had our friends the least vision of the future they would not have given the Punjab a practical and Bengal a deliberate and a small minority. *It is to rectify these mistakes that the Round Table Conference is practically being held. Let there be no mistake about it!* This is what His Majesty's Government and the Prime Minister should primarily understand. It is with this that I should have begun this long dissertation; but I am glad I have come to it now after *clearing the site for laying down the foundation* and I will not take very long. The real problem before us is to give full power to Mussulmans in such provinces as those in which they are in a majority, whether small or large, and protection to them in such provinces as those in which they are in a minority, and in order to be absolutely fair to the Hindu community also, precisely the same thing must be done with the Hindus. What is needed is to give power to a community which is in a majority in any province no matter how small or how large it may be, and protection to it in province no matter how large or small it may be. The Mussulmans desire—*and this is crux of their 14 points* and NOT *separate electorates*—that there should be federal government so that the central unitary Government with a permanent Hindu majority should not

override them everywhere; that they should have at least a third of the British Indian representation in the Federal Government, that in the provinces of the Punjab and Bengal where they have small majorities in population which are unorganised, and greatly controlled by the Banyas and the Sikhs and the Hindu landlords, as in Bengal, these majorities should be reserved (personally I shall be satisfied if for a number of years only such as 20); that in the N.W.F.P. and in Baluchistan (which is only nominally a province) where there are clearly huge Muslim majorities full reforms should be extended to the Mussulmans which have so far been denied by the combination of British military and civil domination and Hindu narrowness characteristically supporting it, and that Sind should be made a separate small province like Assam; and that the Mussulmans should be allowed to have their majority in all these as the Hindus have everywhere else. Unless in these few provinces Muslim majorities are established by the new constitution, I submit, not as a *threat*, but as a very humble and friendly *warning*, there will be civil war in India. *Let there be no mistake about that.* These are the four or five provinces where the Mussulmans should have precisely the same *power* as the Hindus have everywhere else, and the Hindus should have the same *protection* as the Mussulmans demand where they are in minorities.

In the Punjab and Bengal where the Muslim majorities are only 6 and 5 it is *absolutely impossible* to give any weightage to the Siks or to the Europeans, and neither of them really needs weightage, as I shall presently explain. The whole idea has been created in order to rob the Mussulmans of their small majorities in the only two large provinces where their population gives it to them. The franchise in both these provinces, *whether equal for all communities or not*—this is not a religious or an ethical question about which there should be no rigidity, and no fetish, and at present there is no rigidity about the franchises about different communities in India (compare the franchise about the Council of State to-day)—should be such as to give the Mussulmans as many voters at least as their population ratio, and in any case their seats should at least for twenty years be reserved in the same proportion for them because they are indebted to the Hindu banias and too much under the influence of the Sikh *noveau richi*. The Nehru report very ingeniously tried to fool the Mussulmans by talking of adult franchise. Nobody can be more in favour of adult franchise than a true Mussulman. But fortunately or unfortunately women become adults as well as men, and for twenty years at least Muslim women they become adults will not go to the polling booths even if the best purdah arrangements are made for them, and only purdah officers supervise over their voting. In comparison with the Aryas, other Hindus and Sikhs in the Punjab, the Muslim women are bound to suffer. Therefore adult franchise is out of the question. In these two provinces of the Punjab and Benagl no consideration should go against the Muslim demand of a majority of 56 per cent. and 55 per cent. respectively in the entire House.

The Sikhs had acquired in that one generation of rule so much land in the Punjab and they exercise such control over the poor tenants and others in the villages to this day, that they need absolutely no protection. Time after time they have themselves said that if the Mussulmans give up "communalism" "in the interest of Nationalism" they too would give up communalism and abide by the results of the general territorial elections. Robbed of all false sentiment, this means that they do not need protection in the same way as the Mussulmans do, and therefore the idea of providing weightage for them is wholly unnecessary and is a Hindu Mahasabha fiction.

The same may be said of the Europeans in Bengal. It is not by a few seats more or less in the Bengal Council only that they would keep their control over commerce that they have acquired since the days of the John Company. We must provide for that in some other way, and I suggest that the Instrument of Instructions for the Governor of Bengal should provide that nothing should be done in India to wreak revenge against Europeans whatever Indians may feel for the past. A mere weightage of 5 or 10 per

cent. will not help them. It will be absolute ineffective. What it will do will be to rob the Mussulmans of their majority in another of the only two provinces in which at present they are a majority in the population and have reforms.

With regard to the Frontier Province I say nothing because the Frontier Committee is already dealing with the matter and my own suggestion is that the Mussulmans should give to the Hindus and the Sikhs not only twice as much representation as the latter's population but three times as much, so that the Hindus and the Sikhs should feel that the province is their own as well as the Mussulmans and that they have a real share in the government of the province. That is the kind of thing that the Mussulman should feel in Dr. Moonje's province where he is only 4 per cent., or in Madras where he is only 7 per cent., or in Orissa when it is to be separated when he will be in an equally small proportion. *It must be remembered that the feeling for or against the Mussulman in every province is practically the same,* and when it is so bitter in the Punjab it is not likely to be less bitter in provinces like Dr. Moonje's where he is in very small numbers and practically a Hindu Government will rule over him. *The fear is that the idea of revenge is too much in the minds of our young men who have been mistaught Indian history chiefly for political reasons.*

It is only in the Indian States where history is not taught but is still being made by the Princes and made in a human manner in spite of the weakness of Princes, to which I must refer as a confirmed republican, that true protection is often to be found for the Mussulmans.

Let me in passing refer to the fact that the Mussulman has not been made excessively popular to any other minority either by the 1,250 years of rule that he has exercised. Some have a grievance against him because he conquered Persia! Some have a grievance against him because he conquered Byzantium, Syria and Egypt and did not lose Palestine in the Crusades! At any rate, whosoever has ruled over India, whether it be the English or the Mussulman, is bound in some way to suffer from real or imaginary grievances of his old subjects. It is remarkable that the Mussulman suffers much less from it than the British! The British can be the best judge of this feeling of revenge against him, and in making a new constitution they must provide against that feeling for at least a number of years.

I come now to the subject of protection for the minorities. Many of the 14 points provide for this, such as a veto given to two-thirds of the Hindu and Muslim minorities in any legislative or other elected body against the discussion or passage of any bill, resolution, or part thereof, which is considered by it to be against its *interests.* This is the historic provision made by the Congress when the late Sir Syed Ahmed Khan of Aligarh was being invited in 1887 to join the Congress by Mr. Badruddin Tyabji, the other distinguished Mussulman who had joined the Congress. A provision that the Parliament of India before it was recognised and had any real power except to debate, willingly legislated should not now be objected to when the Parliament of India is being recognised and being given effective power. *I insist that the words should be copied from the Congress constitution itself.*

It must be remembered that this provision is not for the protection of any *religion* but of *communal interests* only. *Religion* must be above law, and I am sorry I had just been out of the Plenary Committee when the Prime Minister asked us about the Federal Committee's Report whether we should note the point that no legislation should be introduced affecting the religion or religious rites and usages of any of His Majesty's subjects without the previous assent of the Governor. Already much mischief has been done by that provision on account of the passage of the Sarda Act for which, although it had been passed, no assent was ever taken, the assent being given for a purely ..... Bill as originally introduced. I have not the least objection if the Hindus or members of any other *progressive* religion desire to legislate about their religions. But my religion is *not* "progressive." It claims divine legislation, as I have shown in the statement

presented on the 9th November, 1929, to His Excellency the Viceroy by the deputation of Muslim Ulama and leaders which I led before His Excellency of which I submit a copy with this statement of mine. Matters of such importance must not be rushed through in such a hurry, and *when opportunity arises again I shall see to it that at least Muslim religion is placed above human legislation whether by the Indian or by the British Parliament.* WITHOUT THAT NO MUSSULMAN CAN UNDERTAKE TO BE LOYAL TO ANY CONSTITUTION!

I would say one word only with reference to the weightage that the Mussulmans enjoy and desire to enjoy in every province where they are in such meagre minorities. Nowhere does that weightage give them a majority. As Shakespeare says about the Jews, it can be said of minorities that sufferance is the badge of the tribe! But everywhere weightage gives them a certain amount of influence. And the need of that influence is realised by no one more than by myself who, through my illness, have had the whole of my party unrepresented in the Minorities Committee and elsewhere at present! Weightage will give to the community just so excessively represented only the idea that it has a share in the governance of the country and no more. The same weightage that the Mussulmans claim they are prepared to give to the Hindus in every province in which the Hindus are in a similar minority. But to claim weightage for the Hindus of Bengal or of the Punjab where the minority is in reality better organised and in every way more powerful politically than the majority, more wealthy and better educated is an absurdity. The same is true of the Sikhs in the Punjab, who, apart from every other consideration, are socially Hindus and have politically been working with them. In Sind the Hindu minority is better organised and richer and better educated than the Mussulmans in spite of their being big landlords, and yet I would give them a weightage as large as could satisfy the biggest gourmand!

Let it not be understood that I am a communalist in the sense in which communalism has been understood in Europe. Although nearly a generation ago I was one of the authors of the separate electorate, I have felt that the time for it has passed, and that we should now have, in the interests of Indian nationalism, a mixed territorial electorate. *But a territorial electorate in India of the type of England is an absurdity.* In the province, say of Dr. Moonjee, or of Nawab Sir Abdul Qaiyum, where the minority communities number only 4 and 7 per cent. respectively, the minorities have no chance of getting their true representatives elected even if 20 seats are reserved for them if 96 per cent. or 93 per cent. of the rival community are to be allowed to choose *their* representatives. Men of straw, men who are merely *religiously* Hindu or Muslim, but not *politically* so, will be returned by the votes of politically Muslim and Hindu majorities.

I have therefore after long cogitation and consultation with friends devised a plan. It is certainly far more deserving of consideration than Major Attlee's plan discussed in the Simon report. It is this. Let the seats be reserved for the two communities but let no candidate be declared elected unless he secures

(1) at least 40 per cent. of the votes cast of his own community; and

(2) at least 5 per cent. of the votes cast of other communities wherever he is in a minority of 10 or less per cent., and 10 per cent., where he is in a larger minority or in a majority.

In this way *three* purposes will be served. In the *first* instance, every candidate will have to go cap in hand to both the communities as in the Minto-Morley Reforms which he does not do to-day; and the rank abuse of sister communities which goes on to-day since the Mortagu-Chelmsford Reforms, which has ruined Indian politics, and even social life, will cease. Secondly, no man would be returned to represent any community who does not represent at least a fair percentage of that community though not necessarily its majority as in the separate electorates to-day. The *third* purpose which

is no less important is that ordinarily no person who is not in the least a *persona grata* to a sister community will be able to get returned even if he secures election from his own community. *Thus for the first time communalism will be killed* and true nationalism will get a chance. This is better than P.R. and distinctly better than the " list system." If, however, no candidate from a constituency statisfies either of these minima, the one that secures the largest votes cast of the community for which the seat is reserved must be returned. This will only be the relic of the present separate electorates which is unfortunately inevitable to-day. I do not want any more than that portion of separate electorates to be spared in the new national constitution that we are trying to frame this time in England. Without these conditions Mussulmans will never accept mixed electorates in which a man of straw or even a false convert can be returned by the votes of 96 per cent. of the majority community in any prvoince irrespective of the entire opposition of the community for which the candidate is standing for election as a representative. That will be an absurdity worse than any we have known.

I have explained this system both to His Excellency the Viceroy and to the Secretary of State for India and they were very gravely impressed with the sanity and ingenuity of the measure I proposed. I believe I have a right to mention that Sir Tej Bahadur Sapru and the Right Hon. Srinivasa Sastri have been equally impressed, if not more.

With these words I close this statement of mine which has been dictated through the kindness of the Prime Minister and Sir Geoffrey Corbett in absolute defiance of my doctors who are greatly displeased with the liberty I have taken, and yet if I had not taken this liberty I should have disobeyed them still more greatly and would have gone to the Conference to put this case before the Committee and the Conference even if I died. I beg the Prime Minister and the Committee not to ignore this lengthly screed but to give it some consideration at least. I can assure them that it represents the views of *many scores of millions of Muslims* whose voice may not be heard in the Indian Round Table Conference but whose sentiments cannot be ignored by the Indian administrators as I feel sure Sir Geoffrey Corbett who has been present throughout knows well enough himself.

I remain,

Yours obediently,

(Signed) Muhammad Ali.

APPENDIX II.

SUB-COMMITTEE NO. III.

(MINORITIES).

A SCHEME OF POLITICAL SAFEGUARDS FOR THE PROTECTION OF THE DEPRESSED CLASSES IN THE FUTURE CONSTITUTION OF A SELF-GOVERNING INDIA.

SUBMITTED BY DR. BHIMRAO R. AMBEDKAR AND RAO BAHADUR R. SRINIVASAN.

The following are the terms and conditions on which the Depressed Classes will consent to place themselves under a majority rule in a self-governing India.

Condition No. 1 : Equal Citizenship.

The Depressed Classes cannot consent to subject themselves to majority rule in their present state of hereditary bondsmen. Before majority rule is established their emancipation from the system of untouchability must be an accomplished fact. It must not be left to the will of the majority. The Depressed Classes must be made free citizens entitled to all the rights of citizenship in common with other citizens of the State.

(A) *To secure the abolition of untouchability and to create the equality of citizenship, it is proposed that the following fundamental right shall be made part of the constitution of India.*

FUNDAMENTAL RIGHT.

U. S. A. Constitution Amendment XIV and Government of Ireland Act, 1920, 10 & 11, Geo. V. Ch. 67, Sec. 5 (2).

"All subjects of the State in India are equal below the law and possess equal civic rights. Any existing enactment, regulation, order, custom or interpretation of law by which any penalty, disadvantage, disability is imposed upon or any discrimination is made against any subject of the State on account of untouchability shall, as from the day on which this Constitution comes into operation, cease to have any effect in India."

This is so in all Constitutions, See Prof. Keith's remarks in Cmd. 207 p. 56.

(B) *To abolish the immunities and exemptions now enjoyed by executive officers by virtue of Sections 110 and 111 of the Government of India Act 1919 and their liability for executive action be made co-extensive with what it is in the case of a European British Subject.*

Condition No. II : Free Enjoyment of Equal Rights.

It is no use for the Depressed Classes to have a declaration of equal rights. There can be no doubt that the Depressed Classes will have to face the whole force of orthodox society if they try to exercise the equal rights of citizenship. The Depressed Classes therefore feel that if these declarations of rights are not to be mere pious pronouncements but are to be realities of everyday life then they should be protected by adequate pains and penalties from interference in the enjoyment of these declared rights.

(A) *The Depressed Classes therefore propose that the following section should be added to Part XI of the Government of India Act 1919, dealing with Offences, Procedure and Penalties :—*

(i) *Offence of Infringement of Citizenship.*

U. .S. Statutes At Large. Civil Rights Protection Acts of April, 9, 1866, and of March, 1, 1875—passed in the interest of the Negroes after their emancipation.

"Whoever denies to any person except for reasons by law applicable to persons of all classes and regardless of any previous condition of untouchability the full enjoyment of any of the accommodations, advantages, facilities, privileges of inns, educational institutions, roads, paths, streets, tanks, wells and other watering places, public conveyances on land, air or water, theatres or other places of public amusement, resort or convenience whether they are dedicated

to or maintained or licensed for the use of the public shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

(B) Obstruction by orthodox individuals is not the only menace to the Depressed Classes in the way of peaceful enjoyment of their rights. The commonest form of obstruction is the social boycott. It is the most formidable weapon in the hands of the orthodox classes with which they beat down any attempt on the part of the Depressed Classes to undertake any activity if it happens to be unpalatable to them. The way it works and the occasions on which it is brought into operation are well described in the Report of the Committee appointed by the Government of Bombay in 1928 "to enquire into the educational, economic and social condition of the Depressed Classes (untouchables) and of the Aboriginal Tribes in the Presidency and to recommend measures for their uplift." The following is an extract from the same:—

Depressed Classes and Social Boycott.

"102. Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of voilence by the orthodox classes and consequently such cases are rare.

"The second difficulty arises from the economic position in which the Depressed Classes are found to-day. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common-well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bidegroom on the horse through the public street.

"We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effects. It is the more dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

In the opinion of the Depressed Classes the only way to overcome this kind of menace to their rights and liberties is to make social boycott an offence punishable by law. They are therefore bound to insist that the following sections should be added to those included in Part XI of the Government of India Act, 1919, dealing with Offences, Procedure and Penalties.

I. OFFENCE OF BOYCOTT DEFINED.

This and the following legal provisions are bodily taken from Burma Anti-Boycott Act, 1922, with a few changes to suit the necessities of the case.

(i) *A person shall be deemed to boycott another who—*

(a) *refuses to let or use or occupy any house or land, or to deal with, work for hire, or do business with another person, or to render to him or receive from him any service, or refuses to do any of the said things on the terms on which such things should commonly be done in the ordinary course of business, or*

(b) *abstains from such social, professional or business relations as he would, having regard to such existing customs in the community which are not inconsistent with any fundamental right or other rights of citizenship declared in the Constitution, ordinarily maintain with such person, or*

(c) *in any way injures, annoys or interferes with such other person in the exercise of his lawful rights.*

II. PUNISHMENT FOR BOYCOTTING.

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do, or with intent to cause harm to such person in body, mind, reputation or property, or in his business or means of living, boycotts such person or any person in whom such person is interested, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both:

Provided that no offence shall be deemed to have been committed under this section if the Court is satisfied that the accused person has not acted at the instigation of or in collusion with any other person or in pursuance of any conspiracy or of any agreement or combination to boycott.

III. PUNISHMENT FOR INSTIGATING OR PROMOTING A BOYCOTT.

Whoever—

(a) *publicly makes or publishes or circulates a proposal for, or*

(b) *makes, publishes or circulates any statement, rumour or report with intent to, or which he has reason to believe to be likely to, cause, or*

(c) *in any other way instigates or promotes*

the boycotting of any person or class of persons, shall be punished with imprisonment which may extent to five years or with fine or with both.

Explanation.—An offence under this section shall be deemed to have been committed although the person affected or likely to be affected by any action of the nature referred to herein is not designated by name or class but only by his acting or abstaining from acting in some specified manner.

IV. PUNISHMENT FOR THREATENING A BOYCOTT.

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act

which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, threatens to cause such person or any person in whom such person is interested, to be boycotted shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both.

Exception :—It is not boycott

(i) *to do any act in furtherance of a* bonâ fide *labour dispute,*

(ii) *to do any act in the ordinary caurse of business competition.*

N.B.—*All these offences shall be deemed to be cognizable offences.*

Condition No. III. PROTECTION AGAINST DISCRIMINATION.

The Depressed Classes entertain grave fears of discrimination either by legislation or by executive order being made in the future. They cannot therefore consent to subject themselves to majority rule unless it is rendered impossible in law for the legislature or the executive to make any invidious discrimination against the Depressed Classes.

It is therefore proposed that the following Statutory provision be made in the constitutional law of India :—

" It shall not be competent for any Legislature or executive in India to pass a law or issue an order, rule or regulation so as to violate the rights of the subjects of the State, regardless of any previous condition of untouchability, in all territories subject to the jurisdiction of the dominion of India,

(1) *to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property,*

(2) *to be eligible for entry into the civil and military employ and to all educational institutions except for such conditions and limitations as may be necessary to provide for the due and adequate representation of all classes of the subjects of the State,*

(3) *to be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, educational institutions, privileges of inns, rivers, streams, wells, tanks, roads, paths, streets, public conveyances on land, air and water, theatres, and other places of public resort or amusement except for such conditions and limitations applicable alike to all subjects of every race, class, caste, colour or creed,*

(4) *to be deemed fit for and capable of sharing without distinction the benefits of any religious or charitable trust dedicated to or created, maintained or licensed for the general public or for persons of the same faith and religion,*

(5) *to claim full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by other subjects regardless of any previous condition of untouchability and be subject to like punishment, pains and penalties and to none other."*

Condition No. IV. ADEQUATE REPRESENTATION IN THE LEGISLATURES.

The Depressed Classes must be given sufficient political power to influence legislative and executive action for the purpose of securing their welfare. *In view of this they demand that the following provisions shall be made in the electoral law so as to give them—*

(1) *Right to adequate representation in the Legislatures of the Country, Provincial and Central.*

(2) *Right to elect their own men as their representatives,*

(a) *by adult suffrage,* and

(b) *by separate electorates for the first ten years and thereafter*

by joint electorates and reserved seats, it being understood that joint electorates shall not be forced upon the Depressed Classes against their will unless such joint electorates are accompanied by adult suffrage.

N.B.—Adequate Representation for the Depressed Classes cannot be defined in quantitative terms until the extent of representation allowed to other communities is known. But it must be understood that the Depressed Classes will not consent to the representation of any other community being settled on better terms than those allowed to them. They will not agree to being placed at a disadvantage in this matter. In any case the Depressed Classes of Bombay and Madras must have weightage over their population ratio of representation irrespective of the extent of representation allowed to other minorities in the Provinces.

Condition No. V. ADEQUATE REPRESENTATION IN THE SERVICES.

The Depressed Classes have suffered enormously at the hands of the high caste officers who have monopolized the Public Services by abusing the law or by misusing the discretion vested in them in administering it to the prejudice of the Depressed Classes and to the advantage of the caste Hindus without any regard to justice, equity or good conscience. This mischief can only be avoided by destroying the monopoly of caste Hindus in the Public Services and by regulating the recruitment to them in such a manner that all communities including the Depressed will have an adequate share in them. For this purpose the Depressed Classes have to make the following proposals for statutory enactment as part of the constitutional law:—

(1) *There shall be established in India and in each Province in India a Public Service Commission to undertake the recruitment and control of the Public Services.*

(2) *No member of the Public Service Commission shall be removed except by a resolution passed by the Legislature nor shall he be appointed to any office under the Crown after his retirement.*

(3) *It shall be the duty of the Public Service Commission subject to the tests of efficiency as may be prescribed—*

(a) *to recruit the Services in such a manner as will secure due and adequate representation of all communities,* and

(b) *to regulate from time to time priority in employment in accordance with the existing extent of the representation of the various communities in any particular service concerned.*

Condition No. VI. REDRESS AGAINST PREJUDICIAL ACTION OR NEGLECT OF INTERESTS.

In view of the fact that the Majority Rule of the future will be the rule of the orthodox, the Depressed Classes fear that such a Majority Rule will not be sympathetic to them and that the probability of prejudice to their interests and neglect of their vital needs cannot be overlooked. It must be provided against particularly because however adequately represented the Depressed Classes will be in a minority in all legislatures. The Depressed Classes think it very necessary that they should have the means of redress given to them in the constitution. *It is therefore proposed that the following provision should be made in the constitution of India:—*

British North America Act, 1867, Sec. 93.

"In and for each Province and in and for India it shall be the duty and obligation of the Legislature and the Executive or any other Authority established by Law to make adequate provision for the education, sanitation, recruitment in Public Services and other matters of social and political advancement of the Depressed Classes and to do nothing that will prejudicially affect them.

" (2) *Where in any Province or in India the provisions of this section are violated an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial Authority and to the Secretary of State from any act or decision of a Central Authority affecting the matter.*

" (3) *In every such case where it appears to the Governor-General in Council or to the Secretary of State the Provincial Authority or Central Authority does not take steps requisite for the due execution of the provisions of this section then and in every such case, and as far only as the circumstances of each case require, the Governor-General in Council or the Secretary of State acting as an appellate authority may prescribe, for such period as they may deem fit, remedial measures for the due execution of the provisions of this section and of any of its decisions under this section and which shall be binding upon the authority appealed against.*"

Condition No. VII. SPECIAL DEPARTMENTAL CARE.

The helpless, hapless and sapless condition of the Depressed Classes must be entirely attributed to the dogged and determined opposition of the whole mass of the orthodox population which will not allow the Depressed Classes to have equality of status or equality of treatment. It is not enough to say of their economic condition that they are poverty-stricken or that they are a class of landless labourers, although both these statements are statements of fact. It has to be noted that the poverty of the Depressed Classes is due largely to the social prejudices in consequence of which many an occupation for earning a living is closed to them. This is a fact which differentiates the position of the Depressed Classes from that of the ordinary caste labourer and is often a source of trouble between the two. It has also to be borne in mind that the forms of tyranny and oppression practised against the Depressed Classes are very various and the capacity of the Depressed Classes to protect themselves is extremely limited. The facts which obtain in this connection and which are of common occurrence throughout India are well described in the Abstracts of Proceedings of the Board of Revenue of the Government of Madras dated 5th November, 1892, No. 723, from which the following is an extract:—

" 134. There are forms of oppression only hitherto hinted at which must be at least cursorily mentioned. To punish disobedience of Pariahs, their masters—

(*a*) Bring false cases in the village court or in the criminal courts.

(*b*) Obtain, on application, from Government, waste lands lying all round the paracheri, so as to impound the Pariahs' cattle or obstruct the way to their temple.

(*c*) Have mirasi names fraudulently entered in the Government account against the paracheri.

(*d*) Pull down the huts and destroy the growth in the backyards.

(*e*) Deny occupancy right in immemorial sub-tenancies.

(*f*) Forcibly cut the Pariahs' crops, and on being resisted charge them with theft and rioting.

(*g*) Under misrepresentations, get them to execute documents by which they are afterwards ruined.

(*h*) Cut off the flow of water from their fields.

(*i*) Without legal notice, have the property of sub-tenants attached for the landlords' arrears of revenue.

" 135. It will be said there are civil and criminal courts for the redress of any of these injuries. There are the courts indeed; but India does not breed village Hampdens. One must have courage to go to the courts; money to employ legal knowledge, and meet legal expenses; and means to live during the case and the appeals. Further most cases depend upon the

decision of the first court; and these courts are presided over by officials who are sometimes corrupt and who generally, for other reasons, sympathize with the wealthy and landed classes to which they belong.

"136. The influence of these classes with the official world can hardly be exaggerated. It is extreme with natives and great even with Europeans. Every office, from the highest to the lowest, is stocked with their representatives, and there is no proposal affecting their interests but they can bring a score of influence to bear upon it in its course from inception to execution."

There can be no doubt that in view of these circumstances the uplift of the Depressed Classes will remain a pious hope unless the task is placed in the forefront of all governmental activities and unless equalization of opportunities is realized in practice by a definite policy and determined effort on the part of the Government. *To secure this end the proposal of the Depressed Classes is that the Constitutional Law should impose upon the Government of India a statutory obligation to maintain at all times a department to deal with their problems by the addition of a section in the Government of India Act to the following effect :—*

"1. *Simultaneously with the introduction of this Constitution and as part thereof there shall be created in the Government of India a Department to be in charge of a Minister for the purpose of watching the interests of the Depressed Classes and promoting their welfare.*

"2. *The Minister shall hold office so long as he retains the confidence of the Central Legislature.*

"3. *It shall be the duty of the Minister in the exercise of any powers and duties conferred upon him or transferred to him by law, to take all such steps as may be desirable to secure the preparation, effective carrying out and co-ordination of measures preventative of acts of social injustice, tyranny or oppression against the Depressed Classes and conducive to their welfare throughout India.*

"4. *It shall be lawful for the Governor-General—*

(a) *to transfer to the Minister all or any powers or duties in respect of the welfare of the Depressed Classes arising from any enactment relating to education, sanitation, etc.*

(b) *to appoint Depressed Classes welfare bureaus in each province to work under the authority of and in co-operation with the Minister.*"

Condition No. VIII. DEPRESSED CLASSES AND THE CABINET.

Just as it is necessary that the Depressed Classes should have the power to influence governmental action by seats in the Legislature so also it is desirable that the Depressed Classes should have the opportunity to frame the general policy of the Government. This they can do only if they can find a seat in the Cabinet. The Depressed Classes therefore claim that in common with other minorities, their moral rights to be represented in the Cabinet should be recognized. With this purpose in view *the Depressed Classes propose :*

that in the Instrument of Instructions an obligation shall be placed upon the Governor and the Governor-General to endeavour to secure the representation of the Depressed Classes in his Cabinet.

SCURCE 1.—For columns 1 and 2 Statutory Commission Vol. V, page 1355.
2.—For column 3 Hartog Committee's Report.
3.—For columns 4 and 7 Central Committee, page 86.
4.—For columns 5, 6, 8, 9, 10, 11 and 12 Simon Report.

TABLE I.

DISTRIBUTION OF POPULATION.

Province.	Depressed Classes Population.						Population of					
	As estimated by the Franchise Committee in 1919. In millions.	As estimated by the Census Commissioner in 1921. In millions.	As estimated by the Hartog Committee on Education in 1929. In millions.	As estimated by the Provincial Governments in 1929 and accepted by the Indian Central Committee. In millions.	As estimated by the Simon Commission. In millions.	As estimated by the Simon Commission. As a p.c. of the total.	Hindus excluding Depressed Classes. P.C. of the total.	Sikhs. P.C. of total Population.	Muslims. P.C. of total Population.	Indian Christians. P.C. of total Population.	Anglo-Indians. P.C. of total Population.	Europeans. P.C. of total Population.
	1	2	3	4	5	6	7	8	9	10	11	12
Madras	6·4	6·4	6·53	6·50	6·5	15½	72·3	..	6·7	3·2	·05	·02
Bombay	·6*	2·8	1·46	1·47	1·5	8	68·8	..	18·9	1·1	·05	·2
Bengal	9·9	9·0	6·64	11·50	11·5	24½	18·5	..	54·6	·2	·05	·05
United Provinces	10·1	9·0	7·89	13·00	12·0	26½	55·9	..	14·3	·3	·02	·05
Punjab	1·7	2·8	1·70	2·80	2·8	13½	17·3	11·1	55·2	1·5	·02	·1
Bihar and Orissa	9·4	8·0	2·53	5·00	5·0	14½	68·1	..	10·9	·7	·01	·02
C. P. and Berar	3·8	3·3	3·01	2·67	3·3	24	64·2	..	4·4	·3	·03	·02
Assam	·3	2·0	..	1·55	1·0	13	33·8	..	32·3	1·9	·01	·05
N. W. F.	..	..	..	..	..	..	6·6	..	91·6	..	..	·04
Brit. India	42·2	43·3	29·76	44·50	43·6	19	50·4	..	24·8	·001	..	..

* This figure is quite erroneous and is not warranted by the Census of 1911 which was the basis of the Committee's calculations.

TABLE II.

COMMUNAL COMPOSITION OF PROVINCIAL LEGISLATURES IN INDIA.

SOURCE—Simon Report except for figures in column 2 for Depressed Classes.

Provincial Legislature of	Muslims.			Depressed Classes.			Sikhs.			Indian Christians.			Anglo-Indians.			Europeans.		
	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
Madras . .	13·7	10·6	6·7	..	7·5	15·5	..	..	..	5·3	5·3	3·2	1·0	·8	·05	1·0	9·8	·02
Bombay . .	34·2	25·4	19·8	..	1·7	8	..	..	..	1·3	·9	1·1	1·3	·9	·05	2·5	19·3	·2
Bengal . .	41·4	30·8	54·6	..	·7	24·5	..	..	..	1·1	·7	·2	2·1	1·4	·05	5·3	19·2	·05
U. P. . .	31·2	26·0	14·3	..	·8	26·5	..	..	..	1·1	·8	·3	1·1	·8	·02	1·1	13·8	·05
Punjab . .	47·7	49·0	55·2	..	..	13·5	17·9	15·9	11·1	1·5	2·1	1·5	1·5	1·1	·02	1·5	14·9	·1
Bihar and Orissa	25·3	18·5	10·9	..	·9	14·5	..	..	..	1·4	1·0	·7	1·4	1·0	·01	1·4	18·4	·02
C. P. and Berar	13·2	9·6	4·4	..	5·4	24·0	..	..	..	..	..	·3	1·9	1·4	·03	1·9	10·9	·05
Assam . .	36·3	30·2	32·3	..	1·8	13·0	..	..	..	..	..	1·9	..	..	·01	..	22·6	·04
N. W. F. .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

EXPLANATION.—Column 1 shows Percentage of Communal seats.
Column 2 shows Percentage of Total seats.
Column 3 shows Population Ratio.

APPENDIX III.

SUB-COMMITTEE No. III.

(MINORITIES.)

THE CLAIMS OF THE INDIAN CHRISTIAN COMMUNITY.

SUBMITTED BY MR. K. T. PAUL.

I base my right to make this statement on the Resolutions of the All-India Conference and Council of Indian Christians held year after year from 1922. They are appended herewith. (*Vide* Appendix III.)

No one can be more sensible than I am of the fact that there is more than one view held in my community. I deny that the divergence is as between Roman Catholics and Protestants. The difference of views runs across both the religious groups. I have documentary evidence for this. This fact of a difference of views was taken into full and serious cognisance by the All-India Conference at every session, especially at its Madras session. The attitude taken by the All-India Conference is therefore well considered and quite deliberate.

As I interpret the mind of my Community, what they want may be classified under the following heads:—

1. Fundamental Rights.
2. Representation on Councils.
3. Share in Public Services.
4. Machinery for overseeing Executive action.

1. *Fundamental Rights.*—There should be implemented in the Constitution certain rights to which all citizens of India are entitled wherever they may live in India and to whatever community they may belong or whatever religion they may profess. These should be modelled on Articles cited in pages 331, 332, 333, 334 of Vol. III of the Report of the Indian Statutory Commission. (*Vide* Appendix I.)

2. *Representation on Councils.*—We would prefer to see in India now, or as soon as possible, a complete absence of all reservations on Communal bases of any sort in the legislatures or public services. But it is obvious that that stage has not yet been reached by India and that reservations will be made for certain communities. In that event we would claim: (1) that reservation be made for us in all Legislative bodies in the proportion of population or franchise, whichever will give us a larger number, (2) wherever Weightage is given to any community, we should also be given similar Weightage. We are not asking for Weightage *per se*. But we are sure that when any community is given weightage, seeing that it is bound to be bigger and more forceful than we are, we certainly feel to be in a position of increased disadvantage. Therefore we do ask that we should also be given proportional weightage if that is accorded to any other community. (3) In principle we prefer joint-electorates to separate electorates, the mischievous effects of which on our community has been deplored by the resolutions of our All-India Conference year after year. But in certain Provinces and also in regard to the Central Legislative Body or Bodies, there may be practical difficulties in working out any scheme of Joint-Electorates. We, therefore, wish that the precise method of election be postponed for consideration by the Franchise Committee when it is set up.

In the Madras Presidency by reason of the fact that the Protestant and the Roman Catholic sections of our community are almost equal in numbers and are so distributed in all the Districts, the method of separate electorate has accentuated the separation of the two sections in an unhealthy way. I do not think it will be possible to get over this difficulty by a re-alignment of electoral units in any way that has so far been suggested. I submit that the only alternatives are: (*a*) the reserved seats being filled by the General

Electorate with, perhaps, the safeguard suggested by Major Attlee in pages 86, 87 of Vol. II of the Simon Report, or (*b*) through a system of indirect election. The latter may, concretely, work out as follows: Supposing in the Madras Legislative Council 10 seats are reserved for Indian Christians. The Indian Christian voters in the Province would elect, say, 80 to 100 persons to an "electoral college." This college will be required to elect the 10 M.L.Cs. 5 being Protestants and 5 Roman Catholics, from among their number. Normally they will elect them from their own number. But they will be permitted to choose an outsider to make up the balance if there are not among themselves five of either community.

Similarly in the matter of returning Members to a Federal Legislative Body, the Christian M.L.Cs. of all the Provinces will form into an electoral college and settle the election under rules which will provide for proper division between Roman Catholics and Protestants, and a proper rotation of the Provinces, or groups of Provinces. (*Vide* Appendix II for a further note on this point.)

3. *Reservation in the Services.*—We wish to state very emphatically that any arrangement, as in Madras, which allocates all posts and promotions to a turn-list among the Communities, acts prejudicially to the smaller Minorities and often deprives the country of the services of those best qualified for it. At least 50 per cent. of all posts should be filled on the sole basis of qualification and merit; the other 50 per cent. might be subjected to a turn-list arrangement. In this way there will be an inducement for all Communities (majority or minority) to train its young men and young women to the highest possible qualifications and at the same time we would have secured for the backward communities (majority or minority) a fair share in the Services.

As for promotions we would deprecate any interference with them on the basis of Communal interests. Once an Appointment has been made all further promotions should be entirely on the basis of merit and service. Any unfair action in the matter of promotion should be dealt with through Public Service Commissions or other administrative machinery.

4. *Machinery for Oversight.*—To place the foregoing principles in Constitution or Rules is one thing; to carry them out in perfect equity is another matter. There should be definite provision made in the administrative machinery of the country to safeguard the interests of the Minorities. The following suggestions are made:—

(1) The Protection of Minorities and the care of Depressed Classes may form a portfolio which should be one of the responsibilities of a Minister in each Province, and especially in the Central Executive. We believe there will be enough work in it for a whole-time Under-Secretary to the Minister, the bulk of the work being concerned with the affairs of the Depressed Classes. In regard to these matters the Ministry should by Constitution be made responsible to the Legislative bodies concerned, Provincial and Federal. The Executive action of this Ministry will be on lines analogous to the work of the Commissioner for Labour in Madras, and also to the work of the Minorities Section of the League of Nation Office. It will be concerned (*a*) with all grievances or disabilities connected with water, land, communications, house-sites, allocations for public funds, educational facilities, and any other public utility services, which may be brought to its notice, and deal with them as an interceding, interpreting, rectifying, and co-ordinating agency with the other departments of the administration. It will also be empowered (*b*) to devise means on its own initiative to further the welfare of small Minorities and other backward and Depressed Classes in any line which it finds possible to take for the purpose.

(2) *The Supreme Court.*—We cannot conceive of any legislature in India deliberately attempting to pass any law which will adversely discriminate against any Minority. Sometimes legislation may be attempted in good faith, which is unwittingly prejudicial to a Community. In that contingency there are in the Legislature the representatives of that

Community to point out the injurious consequences which may accrue. Supposing, in spite of such a protest, legislation is firmly attempted, there is the Veto power of the Governor which the Minority affected may invoke by petition or deputation.

When all this has been said, still, a careful forecast of all possible developments in regard to Legislatures and Governorships would lead one to ask that the Supreme Court be vested with some powers analogous to the Supreme Court of the United States of America in regard to legislation. Where a Minority fears the consequences of a particular Bill which has passed Third Reading, its representatives in the Legislature should be empowered either to appeal to the Governor to Veto it or move the Supreme Court. If it takes the latter course and the Court is satisfied that there is a *primâ facie* justification for the fear of injury, it may issue an injunction which will have the effect of suspending the Bill from being passed into law at that session of the Legislature. It may be reintroduced at the next session of that Legislature, or any subsequent session of it, and go through the regular processes of legislation. If it is then passed, the Minority concerned shall have no further right to interfere.

K. T. PAUL.

8, Chesterfield Gardens,
Mayfair, W.1.
1st January, 1931.

APPENDIX I.

A few specimen articles may be cited:—

Article 7. All Polish nationals shall be equal before the law, and shall enjoy the same civil and political rights, without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Polish national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions, and honours, or the exercise of professions and industries.

Article 8. Polish nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Polish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, charitable, religious, and social institutions, schools, and other educational establishments, with the right to use their own language and to exercise their religion freely thereon.

Article 132. In towns and districts where there is living a considerable fraction of Czechoslovak citizens belonging to some minority, whether in respect of religion or nationality or language, and where specific sums of money from public funds as set out in the State budget or in the budget of local or other public authorities, are to be devoted to education, religion or philanthropy, a due share in the use and enjoyment of such sums shall be secured to such minorities, within the limits of the general regulations for public administration.

APPENDIX II.

This is what was said to the Simon Commission by the Deputation of the All-India Council of Indian Christians:—

"Our suggestion is that the Assembly should consist of about 300 elected members, as this would make the Assembly much more representative and would also decrease the size of the constituencies. In our opinion the present size of the constituencies is very large and needs to be curtailed. In an

Assembly of about 300 elected members we suggest the following apportionment:—

Hindus	145
Muslims	100
Indian Christians	9
Sikhs	8
Special interests	38

"If the present numbers are maintained, the Indian Christian community would be entitled to three seats. This will be in keeping with the principles on which we have emphasized. It may be pointed out that, with less than one per cent. of the population, the Sikhs have two seats in the Assembly, while, with over one per cent., Indian Christians have no elected seats. The number of Indian Christians is likely to be considerably larger when the figures of the next Census will be available. In support of this contention we have not only the past rate of progress, but also the Mission and Church statistics, which are tabulated from time to time.

"The problem, however, to be considered is, how are our representatives to be returned? We have already stated that the system of nominations, as far as the representation of our Community is considered, should be entirely eliminted. We cannot too strongly emphasize this point. There is a unanimous and strong opinion of the community behind this feeling. In case the separate electorates are retained, then the matter is simple. Out of these three seats, one should be reserved for South India, and two seats should be apportioned to various provinces or groups of provinces on an alternate rotating system. For instance, we would suggest the following groupings:—

1. Bengal, Assam and Orissa.
2. Bihar and the United Provinces.
3. Delhi, Punjab, North-West Frontier Province and Baluchistan.
4. Bombay Presidency, Central Provinces, Central India, Ajmer-Mewar and Berar.

"Each of these groups could elect one candidate to an alternate Assembly. In case the Assembly is enlarged, as we hope it will be, and our modest and just request for nine seats is accepted in an Assembly of 300, three seats should be reserved for Madras Presidency, and six seats should be divided among the other Provinces of India which may be suitably grouped."

APPENDIX III.

Resolutions of the All-India Conference of Indian Christians.

9th Session held at Lucknow, 1922. That the Conference commends the following resolution to the attention and consideration of the Provincial and Affiliated Associations:—

(*a*) This Conference views with alarm the increasing bitterness of inter-communal jealousy in India, and believing that the principle of communal representation, specially when it is based on Communal electorates in the Councils and the Local Bodies, is contributive to its prolongation, recommends to Government the discontinuance of Communal representation, if possible, and of Communal electorates at any rate.

(*b*) It appeals to the Indian National Congress, National and Communal Organizations to strengthen the hand of Government in the matter by passing resolutions condemning the system of Communal representation, specially when it is based on Communal electorates, as opposed to the best interests of the Motherland.

10th Session held at Bangalore, 1923. (*a*) This Conference wishes to point out that any accentuation of the communal spirit among Indian Christians

adds to the difficulties of the situation and makes it still harder for them to assist in its solution.

(*b*) The Conference understands that the method of separate electorate for the Indian Christian Community will lead to a very unhealthy growth of Sectarian feelings in the Christian community itself and urges the Indian Christian associations in the Madras Presidency to take early steps for rectifying the situation. It appoints the following committee to co-operate with them in this matter.

12th Session held at Calcutta, 1925. This Conference strongly holds that communalism in politics is bound to prove disastrous to the best interests of the nation and must, therefore, be eschewed at all costs. It earnestly recommends that Christian members should not seek representation on the Legislative Councils in India, Central and Provincial, on a communal basis, either through election or nomination, after the present Councils are dissolved.

13th Session held at Madras, 1926. With a view to allay as far as possible communal feeling among the people of India, this Conference views with dissatisfaction the present system of Communal Electorates and resolves to move the Government to amalgamate the Indian Christian Constituencies with those of the non-Mohamadans, reserving ten seats for the Indian Christians in such Constituencies as may be decided on by the Government in consultation with the leaders of the Community.

Special Meeting of All-India Council held at Lucknow, 11th July, 1930.

5. *Minority Problem.* The natural and abiding security of a Minority Community is in the confidence and goodwill of all the other Communities along with whom it makes up the nation. The essential condition for securing and holding such confidence and good-will is in the clear fact that the Minority Community is in every sense identified with the national aspirations and ideals of the country. Where a Minority is above all suspicion in regard to its identification with the nation, any assistance which may come to it because of the political relationship of its country with a foreign nation, however necessary it may be in certain stages of the history of the country, can only be of a temporary nature. Any advantages which may come from the presence of an outside authority ought to be secured sooner than later from internal adjustments on a basis of generous and open confidence.

In regard to this the attitude of the majority is obviously of determining importance. It should be such as to win the ready confidence of at least all the moderate elements in the minorities.

We endorse the view of our All-India Conference of Lahore, 1929, that the community which we represent will gladly agree to an entirely democratic arrangement throughout the country in which there is no special concession to any community.

As a second best, we should agree to the system of " reservation ". But we look with extreme disfavour on the system of Communal Electorates, and shall have to advise our community not to accept it even if it be offered. We do appeal to all other communities at this hour of unparalleled national crisis to rise clear out of that plain of suspicion where our country has been repeatedly ruined in the past and to agree on the system of reservation.

Even the system of " reservation for Minorities " is not free from problems of difficulty. We have our own views about them which we shall state at the proper time and occasions. Meanwhile we shall go so far as to submit that for the purposes of the main task of the Round Table Conference the Minorities should be willing to agree to fairly reasonable adjustment providing in the constitution for its automatic revision from time to time in the light of actual experiences. We confess to grave concern that the great possibilities of constitutional advance through the proposed Round Table Conference might be jeopardized by the obstinacy of the extremists of the various communities. While we have spoken frankly as to our opinion

regarding the Minorities, we must with equal candour appeal to the majority community to so change its attitude towards the other communities as to win their confidence and dispel all their suspicions that the minorities may not have fair play or opportunity for a full expression and development of their culture and heritage. We trust that principles of moderation and mutual confidence will prevail, and that a firm and reliable agreement will be arrived at among the representatives of the communities before the Conference meets.

Realizing that many of the disabilities of the minorities arise in the processes of administrative discrimination, we believe that very effective relief may be found through arrangements on the lines of the Minorities Department of the League of Nations, which operates not through Legislatures or Judiciaries, but by the employment of authoritative " influence " which whenever necessary is supported by mobilized public opinion. We believe further that the arriving at such an arrangement will obviate the necessity for the Statutory provision of any mathematical ratios in the legislatures or in the public services.

We are confident that our own community, especially the rising generation, is well aware of the fact that the place of a Minority in a nation is its value to the whole nation and not merely unto itself. That value depends upon the quality of its life, the standard of its preparation for life's various activities, the strenuousness with which it throws itself into all avenues of useful services and the genuineness with which it seeks the common weal. We are well aware that in the peculiar social situation in India even with all the values we have indicated, there are and will continue to be unmerited hardships falling on individuals and groups. But we record our conviction that while many of such hardships and disabilities will be met by such administrative devices as Public Service Commission and by reservation in the Legislatures and Councils, the real solution is to be found in the positive and constructive methods of the Community straining every nerve to make itself qualified, efficient, useful, and even indispensable to the nation.

FUNDAMENTAL RIGHTS.

CIRCULATED TO ALL DELEGATES AT THE REQUEST OF DIWAN BAHADUR M. RAMACHANDRA RAO.

Now that a Federal Constitution for the whole of India, including the Indian States, is under consideration, I should like to invite the attention of the members of the Conference to a question of supreme importance to the people of the States. It has been assumed that the rulers of the Indian States, who are now members of the Round Table Conference and their Ministers, represent the views of the people of the States and that there is an identity of interest, between the people of the States and their rulers in regard to the problems now occupying the attention of the Conference. It is unnecessary to discuss in any detail whether this position is sound, though there are many considerations which might lead one to an opposite conclusion. In framing a new Constitution, the interests of the people of the States in some of the matters now under discussion are likely to be overlooked on this theory of identity of interests between the Rulers and their people. On the other hand some of the rulers of the States have themselves admitted that the expression "the States" does not mean the Ruler alone. For example, His Highness the Maharaja of Bikaner publicly stated in his Legislative Council two years ago that the term "State" includes not the Ruler alone, but that "the Ruler, his Government and his subjects are all component parts of, and all go to comprise, a State". He amplified the same idea by saying "that if the independence of a State goes, the subjects of that State forthwith lose their integrity and individuality. If the State gains fiscally, it is not only the Princes, but the Governments and subjects of the State gain most. If the State loses in such matters, such loss is shared by the State with the Princes and the Government".

2. In these circumstances, can it be seriously contended that the people of the States have no stake or should have no voice in effecting a change in the existing relations between the States and the Paramount Power or in the evolution of a new Constitutional tie between British India and the Indian States based on the federal principle? In this connection, attention is invited to the memorandum of the Indian State Peoples Conference submitted to the Indian Statutory Commission, where it was contended that the integrity and independence of the States is as much the concern of the people as of the Princes, and that any change in the existing relations between the States and the Paramount Power should not be effected without their consent. The States are not at present British territory, and their subjects are not British subjects in India. The subjects of Indian States are treated in British India as "foreigners" for certain purposes, and they have sometimes been deported from British India to the States under the powers conferred on the Government under certain existing enactments. Similarly, the Indian States authorities have expelled British Indian subjects from their States and the latter have no remedy. The people of Indian States are subject to the law of naturalisation in British India, though I am not aware of a corresponding law in any Indian State in regard to British Indian subjects. A federal Constitution for the whole of India must materially affect the status and position of the people of the Indian States. What will be their future rights and obligations to their own States and to the new Government of a Federated India? The terms on which this double allegiance is to be imposed must receive very careful consideration. It is, therefore, unfortunate that the people of the States have not been afforded suitable opportunities for expressing their own views on the subjects dealt with in the Conference, and it is to be hoped that at least at subsequent stages some attempt will be made to ascertain their views in regard to the new constitutional arrangements now contemplated.

3. Before dealing with the rights and obligations of the people of the Indian States in the future Constitution, it is perhaps necessary to briefly state the present position. The expression "Indian State" does not con-

note any particular form of government. The authors of the report on Constitutional Reforms have summarised the present position in the following words:—

> "They are in all stages of development, patriarchal, feudal, or more advanced, while in a few States are found the beginnings of representative institutions. The characteristic features of all of them, however, including the most advanced, are the personal rule of the prince and his control over legislation and the administration of justice."

So long as this characteristic feature of personal rule does not undergo a material change, the expression "Indian State" must be taken to mean the individual ruling prince of the State concerned and has no reference to the nature of the administration of the State. The most characteristic feature of the States is the absence of the rule of law. This is admitted. At the meeting of the Chamber of Princes held in February, 1928, the Chamber adopted a resolution in favour of the introduction of the rule of law in the States, and at a subsequent meeting, held in Bombay in April, 1928, the Princes re-affirmed "their abiding determination as recorded in the last session of the Chamber of Princes to ensure the rule of law in their States and to promote the welfare and good government of their subjects". It is unnecessary to dilate at any length on the bundle of rights, privileges, and obligations summed up under these compendious words "Rule of law" which is admittedly absent from the States. At present there is no liberty of persons in the States, and if a person is put in prison, there is no remedy by way of a writ of *habeas corpus* against the officers detaining the person concerned in prison. Two years ago, His Highness the Maharaja of Bikaner publicly stated that he has been considering the question of extending the principle of *habeas corpus* in the judicial administration of his State. There is no security of property. The State, in its corporate capacity, cannot be sued in the municipal courts of most of the States. The rights of association and public meeting do not exist in almost all the States. Many of the conferences of the people of the States are held outside the States on account of the restrictions placed on the holdings of public meetings. There are very few newspapers in the States. The Press in all countries is one of the great instruments of good Government; it does not exist in most of the States, and where a few newspapers exist, the most stringent Press regulations have been enacted, with the result that criticism of the measures of Government in the Indian States is almost impossible.

4. I have so far referred to the broad features of the present system of government in the Indian States, not in any spirit of hostility to the States or with a view to casting any reflections on any individual Prince or the Princes' Order, but solely with the purpose of drawing attention to one of the most important features of a Federal Constitution, namely equality of citizenship rights to the people of the federating States. So far as the people of British India are concerned, they have demanded for some years that the basic principle of the new Constitution must be a declaration of fundamental rights and that those rights must be guaranteed in a manner which will not permit their withdrawal under any circumstances. It is not necessary to set out here fully the historical and political aspects of this question and the grounds on which this demand for constitutional guarantees has been put forward. Political India is unanimous on the matter.

The Nehru Committee appointed by the All Parties Conference has discussed this subject at length in Chapter VI of their Report. They are of opinion that such a declaration of fundamental rights should be one of the important features of the new Constitution, and that safeguards and guarantees contained in such a declaration are necessary to create and establish a sense of security among those in India who look upon each other with distrust and suspicion. Every school of political thought in British India has advocated for some years that with a view to secure the full enjoyment of political, religious and communal equality, a declaration of rights should be embodied in the new Constitution. The Government of India have referred to this matter in paragraph 50 of their Despatch, and have pointed out that

"the minority communities attach a great importance" to this matter. They have not been able to express any considered opinions on the subject, but certain difficulties have been pointed out, and the opinion is expressed that the Conference will probably deal with the whole subject.

5. If a declaration of fundamental rights is necessary in the case of British India, it is even more necessary for safeguarding the rights and liberties of the people of Indian States, where the rule of law has not been as yet established. It is also obvious that such a declaration of rights cannot be enacted only for British India but that it must apply as well to the Indian States joining the Federation.

6. I do not wish to refer to the detailed provisions to be included in such a declaration of rights. They are set out under 19 heads in the Nehru Report (page 101). These may form the basis of discussion and they will be equally applicable to the people of the Indian States. It may be that they may have to be modified in some particulars, but they come under one or other of the following heads:—

(1) Inviolability of person and property.

(2) Freedom of religion and conscience.

(3) Right of public meeting and association.

(4) Equality of all citizens before the law.

(5) Right of the citizens to have a writ of *habeas corpus* and trial according to law.

(6) Right of the citizens to public employment and the exercise of any trade or calling irrespective of religion, caste or creed.

(7) Freedom of combination and association of all citizens for the maintenance and improvement of economic conditions.

(8) Right to bear arms to all citizens.

(9) Right of all citizens to receive free elementary education.

(10) Equal rights to men and women as citizens.

(11) Equal rights of access to all citizens to the use of public wells, public roads and to all other places of public resort.

7. Attention is also invited to the analogous provisions in some of the older Federal Constitutions like the United States of America, Switzerland, and Germany; and also to the fundamental Constitutional law of New Germany. The Constitutional laws relating to some of the new governments in Eastern and Central Europe also contain many provisions relating to the fundamental law of citizenship. The Polish Constitution lays down that fidelity to the Republic is one of the foremost duties of Polish citizens. Poland guarantees to all its citizens full protection of life, liberty and property without distinction of extraction, nationality, language, race or religion. "Equality of citizens before the law is among the most cardinal of the rights accorded them under the Polish constitution. All have access on equal terms to public office, and no distinctions of birth or estate are recognized. Hence titles, as they are retained in republican Poland, have no more significance than in republican Germany or republican France. Freedom of the person, of domicile, of migration and emigration, of choice of location and vocation; freedom of speech, petition, association and union; freedom of religion and conscience and secrecy of correspondence, are all guaranteed within legal limits. Particular attention is paid to the right of *habeas corpus* and to immunity from search without warrant; sundry safeguards are placed about the citizen to prevent him from being denied access to legal justice. No censorship of the press is permitted, and daily papers and other publications printed in Poland may not be debarred from the mails or denied the right of free circulation throughout the country. There is also a constitutional guarantee of freedom to publish any results of learned investigation and research. Thus the guarantees of individual freedom seem particularly broad; their actual enforcement through the Polish judiciary will, without doubt, raise some difficulties and be apt to define in a more detailed manner the extent and limitations of such rights.

In general, however, it may be said that the Polish constitution establishes individual rights in a very far-reaching manner, going further in some respects than any other contemporary constitution." The fundamental rights of Esthonian citizens are set out in the constitutional law of the Esthonian republic. It is declared that all Esthonians are equal before law. The usual legal rights of citizens to inviolability of person and domicile, to trial by no courts other than those designated by law, the grant of right of *habeas corpus* are clearly provided. Freedom of religion and conscience are also provided. The provisions of some of the other modern constitutions may also be referred to and it is not necessary to go into them in great detail.

8. It is therefore suggested that the rights and obligations of the citizens of the federating States and of British India to the new federal government of United India should be carefully examined, clearly defined, and that these fundamental rights should be embodied in the constitution. The judicial machinery for enforcing these rights remains to be considered. Indian States have been demanding for some time that a Supreme Court should be established for the purpose of obtaining the decisions of an independent body in regard to the disputes between States and States and between British India and the States. They have advocated the establishment of such a body for some time and this Court may be empowered to deal with violations of the fundamental rights that may be guaranteed by the constitution to the people living under the Government of a Federated India. It may be admitted that there are difficulties in investing the Court with jurisdiction in these matters but the subject requires careful consideration.

It is a matter for satisfaction that Sir Mirza Ismail has, in his scheme, recognised the importance of providing for fundamental rights in the Constitution, and it is to be hoped that the other members of the delegation will see their way to agree to the proposal.

The Indian Central Committee has also recommended the enactment of fundamental rights in the new Constitution.

M. RAMACHANDRA RAO.

8, Chesterfield Garden,
Mayfair, London.
1st December, 1930.

MGIPC—L—VII-10—2-5-31—1,000.



Indian Round Table Conference

12th November, 1930—19th January, 1931

PROCEEDINGS OF SUB-COMMITTEES

(Volume IV)

[SUB-COMMITTEE No. IV (Burma)]

CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1931

Government of India Publications are obtainable from the Government of India Central Publication Branch, 3, Government Place, West, Calcutta, and from the following Agents :—

EUROPE.

OFFICE OF THE HIGH COMMISSIONER FOR INDIA,
INDIA HOUSE, ALDWYCH, LONDON, W. C. 2.

And at all Booksellers.

INDIA AND CEYLON : Provincial Book Depôts.

MADRAS :—Superintendent, Government Press, Mount Road, Madras.
BOMBAY :—Superintendent, Government Printing and Stationery, Queen's Road, Bombay.
SIND :—Library attached to the Office of the Commissioner in Sind, Karachi.
BENGAL :—Bengal Secretariat Book Depôt, Writers' Buildings, Room No. 1, Ground Floor, Calcutta.
UNITED PROVINCES OF AGRA AND OUDH :—Superintendent of Government Press, United Provinces of Agra and Oudh, Allahabad.
PUNJAB :—Superintendent, Government Printing, Punjab, Lahore.
BURMA :—Superintendent, Government Printing, Burma, Rangoon.
CENTRAL PROVINCES AND BERAR :—Superintendent, Government Printing, Central Provinces, Nagpur.
ASSAM :—Superintendent, Assam Secretariat Press, Shillong.
BIHAR AND ORISSA :—Superintendent, Government Printing, Bihar and Orissa, P. O. Gulzarbagh, Patna.
NORTH-WEST FRONTIER PROVINCE :—Manager, Government Printing and Stationery, Peshawar.

Thacker Spink & Co., Calcutta and Simla.
W. Newman & Co., Ltd., Calcutta.
S. K. Lahiri & Co., Calcutta.
The Indian School Supply Depôt, 309, Bow Bazar Street, Calcutta.
Butterworth & Co. (India), Ltd., Calcutta.
M. C. Sarcar & Sons, 15, College Square, Calcutta.
Standard Literature Company, Limited, Calcutta.
Association Press, Calcutta.
Chukerverty, Chatterjee & Co., Ltd., 13, College Square, Calcutta.
The Book Company, Calcutta.
James Murray & Co., 12, Government Place, Calcutta. (For Meteorological Publications only.)
Rav Choudhury & Co., 68-5, Ashutosh Mukherji Road, Calcutta.
Scientific Publishing Co., 9, Taltola Lane, Calcutta.
Chatterjee & Co., 3-1, Bacharam Chatterjee Lane, Calcutta.
Standard Law Book Society, 8-2, Hastings Street, Calcutta.
The Hindu Library, 3, Nandalal Mullick Lane, Calcutta.
Kamala Book Depôt, Ltd., 15, College Square, Calcutta.
*Bengal Flying Club, Dum Dum Cantt.
Kali Charan and Co., Municipal Market, Calcutta.
B. C. Basak, Esq., Proprietor, Albert Library, Dacca.
Higginbothams, Madras.
Rochouse and Sons, Madras.
G. A. Nateson & Co., Publishers, George Town, Madras.
P. Varadachary & Co., Madras.
City Book Co., Madras.
Law Publishing & Co., Mylapore, Madras.
The Booklover's Resort, Taikad, Trivandrum, South India.
E. M. Gopalakrishna Kone, Pudumandapam, Madura.
Central Book Depôt, Madura.
Vijapur & Co., Vizagapatam.
Thacker & Co., Ltd., Bombay.
D. B. Taraporevala Sons & Co., Bombay.
Ram Chandra Govind & Sons, Kalbadevi Road, Bombay.
N. M. Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay.
New and Secondhand Bookshop, Kalbadevi Road, Bombay.
J. M. Pandia & Co., Bombay.
A. H. Wheeler & Co., Allahabad, Calcutta and Bombay.
Bombay Book Depôt, Girgaon, Bombay.
Bennett Coleman & Co., Ltd., The Times of India Press, Bombay.
The Manager, Oriental Book Supplying Agency, 15, Shukrawar, Poona City.
Rama Krishna Bros., Opposite Vishrambag, Poona City.
S. P. Bookstall, 21, Budhwar, Poona.
Mangaldas & Sons, Booksellers and Publishers, Bhaga Talao, Surat.
The Standard Book and Stationery Co., 32-33, Arbab Road, Peshawar.
The Students Own Book Depôt, Dharwar.
Shri Shankar Karnataka Pustaka Bhandara, Malamuddi, Dharwar.
The Standard Bookstall, Karachi, Quetta Delhi, Murree and Rawalpindi.
* Hossenbhoy Karimji and Sons, Karachi.
The English Bookstall, Karachi.
The Standard Bookstall, Quetta.
U. P. Malhotra & Co., Quetta.
J. Ray & Sons, 43, K. & L., Edwardes Road, Rawalpindi, Murree and Lahore.
The Standard Book Depôt, Lahore, Nainital, Mussoorie, Dalhousie, Ambala Cantonment and Delhi.
The North India Christian Tract and Book Society, 18, Clive Road, Allahabad.
Ram Narain Lal, Katra, Allahabad.
The Indian Army Book Depôt, Dayalbagh, Agra.
Narayan & Co., Meston Road, Cawnpur.
The Indian Army Book Depôt, Jullundur City, Daryaganj, Delhi.
Manager, Newal Kishore Press, Lucknow.
The Upper India Publishing House, Ltd., Literature Palace, Ammuddaula Park, Lucknow.
Rai Sahib M. Gulab Singh & Sons, Mufid-i-Am Press, Lahore and Allahabad.
Rama Krishna & Sons, Booksellers, Anarkali, Lahore.
Students Popular Depôt, Anarkali, Lahore.
The Standard Bookstall, Lahore.
The Proprietor, Punjab Sanskrit Book Depôt, Saidmitha Street, Lahore.
The Insurance Publicity Co., Ltd., Lahore.
The Punjab Religious Book Society, Lahore.
The Commercial Book Co., Lahore.
The University Book Agency, Kachari Road, Lahore.
Manager of the Imperial Book Depôt, 63, Chandney Chawk Street, Delhi.
J. M. Jaina and Bros., Delhi.
Fono Book Agency, New Delhi, and Simla.
Oxford Book and Stationery Company, Delhi, Lahore, Simla, Meerut and Calcutta.
Supdt., American Baptist Mission Press, Rangoon.
Burma Book Club, Ltd., Rangoon.
S. C. Talukdar, Proprietor, Students & Co., Cooch Behar.
The Manager, The Indian Book Shop, Benares City.
Nand Kishore & Bros., Chowk, Benares City.
The Srivilliputtur Co-operative Trading Union, Ltd., Srivilliputtur (S. I. R.).
Raghunath Prosad & Sons, Patna City.
The Students' Emporium, Patna.
K. L. Mathur & Bros., Guzri, Patna City.
Kamala Book Stores, Bankipore, Patna.
G. Banerjea and Bros., Ranchi.
M. C. Kothari, Raipura Road, Baroda.
The Hyderabad Book Depôt, Chaderghat, Hyderabad (Deccan).
S. Krishnaswami & Co., Teppakulam P. O., Trichinopoly Fort.
Karnataka Publishing House, Bangalore City.
Bheema Sons, Fort, Bangalore City.
Superintendent, Bangalore Press, Lake View, Mysore Road Bangalore City.

AGENT IN PALESTINE :—Steimatzky, Jerusalem.
* *Agent for publications on aviation only.*

INTRODUCTORY NOTE.

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

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

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

TABLE OF CONTENTS.

	Page.
SUB-COMMITTEE No. IV (BURMA)	1—63
Members	1
Terms of reference	1
1st Meeting, 5th December 1930	1—14
2nd Meeting, 8th December, 1930	14—39
3rd Meeting, 9th December, 1930	39—60
Report	61—63

INDIAN ROUND TABLE CONFERENCE.

SUB-COMMITTEE NO. IV.

(Burma.)

The Sub-Committee was constituted as follows:—

The Earl Russell (*Chairman*).	Mr. B. Shiva Rao.
The Earl Peel.	Rao Bahadur Srinivasan.
Mr. Isaac Foot.	Captain Raja Sher Muhammad Khan.
U Aung Thin.	Mr. H. P. Mody.
U Ba Pe.	Mr. A. H. Ghuznavi.
Mr. M. M. Ohn Ghine.	Sir B. N. Mitra.
Mr. de Glanville.	Sir Hubert Carr.

with the following terms of reference:—

"To consider the nature of conditions which would enable Burma to be separated from British India on equitable terms and to recommend the best way of securing this end."

PROCEEDINGS OF THE FIRST MEETING OF SUB-COMMITTEE NO. IV (BURMA) HELD ON 5TH DECEMBER, 1930.

Chairman: The terms of reference to this Committee are "to consider the nature of the conditions which will enable Burma to be separated from India on suitable terms, and to recommend the best way for securing this end". As I think was understood by the Conference, and as was stated by the Prime Minister when that resolution was adopted, it is perfectly clear that the question of the principle of the separation of Burma is no longer open to discussion. That matter has been settled, and the object of this Committee is to consider the suggestions in the terms of reference. I thought that to-day we should be acting most wisely if we decided the kind of subjects that have to be considered and that we shall have to discuss, and to arrange about our future meetings.

Before our next meeting I should propose to have circulated to the Committee, I think, some little memorandum showing the kind of questions that we are considering and are discussing. It will be convenient, probably, for everyone to have that, and I have a note here of one or two of the most obvious ones. Of course, the first and most obvious question is the question of finance. The finance of Burma has considerably affected the finance of India, and there will be views, no doubt, as to what sort of financial settlement should take place on their separation. Obviously in this Committee

we cannot go into any details of that, because it involves very long calculations by experts, which would take the experts alone a long time; but we might be able to lay down some principles. I do not know what the feeling of the Committee would be, but my own feeling would be that in view of the generous gesture that was made by the Conference in accepting the separation of Burma so freely we might be able to part and remain good friends, both countries when they are separated, and that possibly the financial business might be settled without a long discussion of a debtor and creditor account possibly by starting with a clean slate from where you were; but that will be a matter on which I think this Committee might quite properly make a recommendation as to the sort of principle that should be followed. The Committee that will be set up to consider finance will probably have to be a committee of experts, and no doubt, when the time comes, there might be attached to that Committee representatives of the Indian Legislature on the one side and of the Burmese Legislature on the other, in order that everybody might be satisfied that the case had been fully presented, and that, when the settlement was come to, both countries might accept it willingly and in good part.

Then, of course, there is another question which it is perhaps not for us to consider, but on which a recommendation from this Committee would be useful, and that is the framing of the new Burmese constitution. It has been generally understood, I think, that Burma is to have a new constitution and that that constitution will have to be settled by some sort of conference, probably following this Conference.

There are two suggestions at least which have been made in regard to that. The suggestion which was made in the full Committee was that there should be a conference in London in due course, which representatives of Burma would attend, similar to the present Round Table Conference, but of course on a much smaller scale, where this new constitution could be discussed and settled. It is obvious, of course, that India would wish to be represented on that Conference to some extent, no doubt, in regard to questions that would arise; and the alternative would be to send out some sort of Commission to Burma to discuss the matter on the spot. I do not know whether the Committee would feel that that would be necessary, or that it would be convenient. It would probably be a much longer process. It might involve hearing a great deal of quite unnecessary evidence, and it might be that the matter could be settled here equally well; but that will be a matter which, no doubt, will be a subject for discussion. I think that probably that might be the first subject for discussion but that will be for the Committee to decide.

Then, of course, there is also the question of the defence of Burma after the separation. That will be a matter, again, not for this Committee to settle, obviously, because it involves military questions, and the military experts would have to be consulted, and their advice, no doubt, would have to be very seriously considered;

but this Committee, there again, might, no doubt, consider the principles that are possible—whether Burma would raise its own army, whether it would make terms with India and employ some Indian regiments, or in what other way the defence would be settled. We might possibly arrive at some conclusion as to what would be satisfactory to both countries; but it is obviously one of the questions on which we might, I think, make some recommendations and which obviously has to be considered before the separation becomes effective.

Then there are, of course, a good many administrative arrangements to be made. Those are perhaps not really matters of principle so much, but there may be some consideration of them required. I am not sure whether everyone realised, when we agreed to the separation of the two countries, what such a separation involves. It involves, of course, that you have to consider whether the laws of the country you are leaving will go on applying to the new country of Burma, or whether you will have to make new laws of the same kind, or whether for the time being you will adopt those laws as the laws of Burma, and then change them at your leisure. Obviously, there are a lot of things of that sort that will have to be considered.

Then, of course, there is the question of navigation and of the Port of Rangoon, and the question of railways, and of posts and telegraphs. All sorts of things of this kind that arise on separation will have to be considered as part of the necessary adjustments which have to be made when one country separates from another.

There is another question on which this Committee might very properly make a recommendation, and that is this. Ultimately, when the new Burma constitution is framed, and when Burma becomes a separate and independent unit, whether it will remain under the Secretary of State for India, or whether it should be placed under the Secretary of State for the Dominions. That is a question on which this Committee might quite properly express an opinion; and it may be that although one course would be the more technically correct course, the other might turn out to be the more convenient.

Those seem to me generally the sort of questions for discussion, and all I want to ask the Committee to do to-day is to express an opinion as to whether there are other questions that should be added to those, and whether the sort of time of meeting that I have suggested for next week will be convenient to take up those questions, or if there is any one of them that you would like to discuss this morning.

Mr. H. P. Mody: May I make a preliminary observation. You were quite right, my lord, in stating just now that it is not open to us to question the principle of the separation in view of the decision which was arrived at by the Committee of the whole House. That is perfectly correct; but what is the position of those like myself who did not acquiesce in that decision? I do not wish to be understood as saying that I am against the separation of Burma.

All that I wish to point out is that I have not had sufficient opportunity for making up my mind about the question. The whole question was disposed of in a few minutes, and my position would be that I would like to consider the question. However, it is not open to me in this Committee to consider that question. Well, what I want to know is, because I am here and am giong to take part in the deliberations of the Committee, am I going to be estopped from raising that question again either in the open Conference or when we meet again in the full Committee of the Conference? I only want to safeguard my own position, and I wish it to be understood that because I take part in your deliberations it must not be understood that I have acquiesced in the principle of the separation of Burma. I keep an entirely open mind on the subject, and I wish to be understood in that sense. That is the only point I wish to make.

Chairman: I do not think your position will be prejudiced by your taking part in the deliberations here, but whether you could be allowed to raise it again in the full Committee would be a matter for the Prime Minister to rule upon. I should have thought that probably you could not, but you might be allowed to raise it in plenary session when the Committee reports to the plenary session. I rather doubt whether you would be in order in raising it again in the full Committee.

Lord Peel: I should have thought the only occasion was in the plenary, when the full Conference sits.

Mr. Foot: I think a grievance undoubtedly exists—the grievance that a matter affecting 12 millions of people upon the one side, and India upon the other, should have been dealt with in a way that may be considered as being casual. There was no assurance the other day that it was to be on the agenda for discussion at that time. Some members of the larger Committee thought that the time might have been occupied upon other subjects, and suddenly, because those subjects took such a little time, we were confronted with the problem of Burma. For myself, I am entirely in agreement with the conclusion that was rather hurriedly arrived at, but at some time or other obviously there ought to be a fuller consideration of a matter so important, so vital to those who are concerned; and it would be a pity, I think, my lord, if that had to go back to a plenary sitting of the Conference and if we could not obtain some authority for the consideration of that question. Obviously this is the best Committee to deal with that, and one does not like to leave outstanding questions, and would it not be difficult if we proceeded upon the framework that you yourself have laid down when, at the back of the minds of many here, there might be the very well-lodged grievance that the whole question has received hitherto too casual a discussion altogether? We are not bound, of course, by rules and regulations and by orders, as we are in Parliament, and I should have thought that in spite of the answer that was perhaps very quickly given by the Prime Minister at that time, if it were the wish of this Committee that that subject should be

discussed the convenience of the whole Round Table Conference would be served by being given authority for that purpose.

I am quite sure that time will be saved in that way, because since the questions was raised at the Conference we have had representations made to us. They may not have a very serious ground, but they are representations which those who make them ought to be assured have been taken into consideration. It would be a very great pity if we arrived at any decision that is going to leave a grievance; and that grievance can be best met by an assurance that the matter has been considered in all its aspects. If I may make the respectful suggestion, I would suggest that there mgiht be a conference between myself and the Prime Minister upon that, so that if there is a desire on the part of this Committee at some stage or another to look at the general question, we should be enabled to do so. I feel satisfied, otherwise, that although we may be able to deal with all the subsidiary points arising if we have then to report to the Conference itself that a substantial number of the Committee although agreed upon certain subsidiary points, still think that the whole question of separation needs a fuller discussion than has been given to it, time would be saved by a Committee being appointed for that purpose.

Chairman: May I tell the Committee my own views on Mr. Foot's suggestion. Mr. Foot will remember that, after all, every member of the Conference has been considering for a year at least the question of the separation of Burma. It is not a new matter to those who discussed it in the Conference. It is mentioned in the Simon Report; it is mentioned again in the Despatch of the Government of India, and speaking for myself, and judging from the attitude of the Conference the other day, I should have said that the majority in favour of separation was overwhelming; I should have said that there was a barely perceptible minority; and I really do not think that this Committee could take up that question of principle, because that is a question of principle which can obviously only properly be settled by the full Conference. You must have all the interests represented, I think. I do not think a small Committee like this could discuss such a question of principle. The only thing that the Committee might do—and I hope they will not consider it proper to do so—would be at once to refer back to the Conference the whole question, and say we wanted a fresh discussion on the separation of Burma; but in view of the overwhelming majority I am inclined to think that that would hardly be a reasonable thing to do. I am inclined to think that those who were opposed to the separation were a very small number of the whole Conference.

U Aung Thin: After what the Chairman has said as to the subject of separation having been before the public for such a long time, for over a year, and the fact that there was no indication on the part of the British Indian delegates to take part actively in the discussion, shows that they are either in favour of separation or that they have no particular objection to raise against it. The

Prime Minister as Chairman has given ample opportunity to the Conference to contribute their views on the subject, and he was really quite right in saying that the general opinion of the Conference was in favour of separation. If this question were to be re-opened we, the Delegation from Burma, would certainly oppose it *en bloc*.

Raja Sher Muhammad Khan: I quite agree with my friend U Aung Thin. You will remember that the discussion on the first day was opened I think by the Princes and by the British Delegation and there was every sympathy with the separation of Burma. As U Aung Thin says, everybody was agreed by an overwhelming majority that Burma should be separated. But I do not agree with Mr. Foot that we were suddenly confronted with the question. I have had long talks with some Indian friends before this question was opened and, as I say, I could see that all the British Delegation was in favour of the separation of Burma; so I do not think that the question suddenly confronted the British Delegation or the Princes.

Chairman: Do you mean the British Indian Delegation?

Raja Sher Muhammad Khan: Yes, the British Indian Delegation. As it has been agreed by the Princes and the overwhelming majority of the British Indian Delegation, I do not think it would be desirable to raise again the question of the separation.

Sir B. N. Mitra: I do not agree with Mr. Foot's suggestion and I do not think we can go so far. Perhaps in the other Committees too there are people who do not wholly accept the principle. If Mr. Foot's suggestion is accepted something may happen in almost every Committee; that is to say, they may say; "Before we proceed to discuss the details of the terms which we have been called upon to consider, we want a further discussion of the main principles"; and no Committee could go on doing its work. Therefore, I submit, that while the Committee goes on doing its work and we with it, those who do not accept the principle of separation may make, in signing the Report of the Committee, that qualification to safeguard their position. Then they may be allowed again to raise the question of principle in the Plenary Session where alone it can be discussed.

Lord Peel: Is it not the case that all the discussions were to a certain extent of a provisional nature? I thought that was given out by the Prime Minister himself, and that no really final decisions were arrived at. I was myself a little surprised that there was no more discussion on the Burmese problem. But I certainly did gather, as one does from the feeling at a big meeting, that there was an overwhelming opinion in favour of the general principle. Perhaps, I am a little biassed myself, for I formed my own opinions some time ago on this question. Therefore, perhaps, I am not so much open to argument as others. After all, I think that general decision was provisional. All the details are going to be very carefully considered, I understand, in Committee, and surely the difficulties that, for instance, Mr. Mody feels can all be brought

out. If Mr. Mody is opposed to separation, he is opposed to it on certain grounds. Surely, all those grounds will be discussed in the course of considering these questions which you have outlined to us Mr. Chairman, will they not? It seems to be perfectly open to any members of the Committee to raise their points. In my own case I happen to have gone into a good many of these grounds before. Surely, when we are discussing the question, important reasons will emerge which may, to some extent, alter the opinions of some of these gentlemen when they have gone into the matter; and they might find themselves then in favour of separtion. There are certain practical difficulties which will come up and which will have to be considered when they do come up, and gentlemen like Mr. Mody will have every opportunity without going into the question of principle. This sub-Committee has to report, I suppose, to the Plenary Committee?

Chairman: We will report to the Plenary Committee.

Lord Peel: That being so, I should have thought that in the course of these detailed discussions all the questions of principle and their application would be discussed.

Chairman: I might tell Mr. Mody that we have said, on behalf of the Government, that we were going into this Conference with an open mind. The question of Burma was one on which it might have been very easy not to have had an open mind, but to have followed the Simon Report without further consideration. But I did, in fact, keep an entirely open mind because I was prepared, if there appeared to be strong British Indian opposition, to consider that opposition very seriously to see whether it was justified and whether it could not be met. There were obvious reasons given in the Simon Report, geographical, ethnical, and so on, for the separation. There were obvious difficulties also, chiefly, I imagine, financial ones, in connection with separation. I do not know whether Mr. Mody's attitude is that there is nothing in the terms of separation that would satisfy him or whether it is the principle of separation that he is opposed to; but he will have ample opportunity of bringing his suggestions forward here if they have anything to do with the terms of separation. It may be that when terms have been arrived at he may not be opposed to separation. But if he is opposed as a matter of principle, I think his right is an obvious one to bring the question up when the main Committee reports to the Plenary Session. I do not hold out much hope of his getting support from the Plenary Session.

Mr. H. P. Mody: May I say that I am not opposed to separation. My whole point is that I am not in a position at the moment to say whether I shall agree to separation or not. I did not acquiesce in the decision and I did not want to say anything about the decision. I did not say a word for the simple reason that I thought it was not right, as a member of the Committee, to question the decision of the whole Committee. But since so much has been said I would like to tell you that we were rushed into that decision, if there was a definite decision. We were simply rushed into it.

We have been here for weeks deliberating upon various questions and I say that we have not arrived at a single decision of any importance. The one decision of importance that we did arrive at was arrived at in 20 minutes or, it may be, less than 15 minutes. I remember a member getting up and asking at one stage whether the question of the separation of Burma was an open question and the Prime Minister said it was not. It all happened in a few minutes. I only wanted to make my position clear. I did not know whether I should be regarded as being *estopped* from raising that question again when we come into the full Committee.

Chairman: Mr. Mody will be perfectly within his rights in raising the matter when the time comes, if he thinks he ought to go into it.

Mr. Mody: Then the position is that we shall be allowed to discuss it?

Chairman: In this Committee?

Mr. Mody: In this Committee.

Chairman: Not in this Committee. In the Plenary Session I think it is obvious that anybody can discuss it again.

Raja Sher Muhammad Khan: We can discuss it on the report, I suppose?

Earl Peel: Was it not the general ruling of the Prime Minister that all these things must necessarily be provisional?

Chairman: Not only are they provisional, but they are to be reported, and on the report they can be objected to.

Raja Sher Muhammad Khan: Then on the report anybody can discuss these matters?

Chairman: Quite.

Mr. Mody: Your Lordship cannot give a decision here? That will rest with the Chairman who presides at the Plenary Session?

Chairman: Quite. I can tell Mr. Mody that according to our ordinary rules of discussion he will be fully entitled to raise the question again in the Plenary Session.

Lord Peel: And Mr. Mody's speech would be even more powerful than it otherwise would have been?

Mr. Foot: As far as I have been able to consider the matter, and of course I have not had the opportunities that some have had, I think the arguments for separation are overwhelming? My only concern is that when it is done, after so many years of association, it should be done in such a way that those who are opposed to separation in Burma might have the satisfaction of knowing that it was done gravely and deliberately and after full consideration.

Mr. Mody: That is the whole point.

Chairman: I entirely agree with Mr. Foot. There is one other matter that I did not mention and that is the protection of minorities. That is a matter of principle that we ought to discuss. It does not happen, fortunately in Burma in the same way as in

British India. But the whole point of Indians in Burma is a matter of principle that we ought to discuss. There may be others that I have omitted. I propose to circulate before our next meeting a list of the heads that have to be considered by the Committee.

Mr. Foot: Would the question arise, as one of the heads, as to whether the link between this country and Burma was to be through the Viceroy or through the Governor-General? That would be under the heading of the new constitution. It is raised in the Simon Report, you will remember.

Chairman: Yes.

Mr. Foot: The question is raised there, with the arguments for and against.

Chairman: That is one of the things, no doubt, we might raise.

Mr. Foot: Would it be under a separate head? It might not come under the framing of the new constitution, which could cover anything.

Sir B. N. Mitra: Would it not come under the head of who would be the head of the Executive in Burma?

Chairman: Who would be the head of the Executive in Burma and what would be the channel of the relations with the British Crown.

Mr. Foot: That would be a subsidiary question, of course.

Chairman: Of course, I shall not rule anything out which is germane to the terms of reference in any way and I shall be glad if anyone will suggest any other matter or any other head that ought to be included in the heads.

Sir B. N. Mitra: May I say a word about the procedure you have outlined? It seems to me that this Commitee can do very little on the matters with which I am largely concerned, financial, or fiscal, or even Indian Labour in Burma. Those would be matters, as I think your Lordship suggested, for settlement between the Government of separated Burma when it comes into existence and the Government of the residual India when that comes into existence. In fiscal matters there must be negotiations which will hereafter have to be conducted by the Legislatures of the two countries. In regard to labour, action of a somewhat similar character will have to be taken. Therefore, I am rather at a loss clearly to visualise what we are going to do in regard to those particular matters.

Chairman: Yes. I did not mention fiscal matters. Of course, as an old free-trader myself, I very much dislike to see new Customs barriers set up between two countries which have not had one. But I am told by those who know that India and Burma are not likely to agree to be in the same Customs Union or not to have some sort of tariff. That will be a matter, as I say, for probable negotiation between the two different governments when they are established, in the way that other countries negotiate about Customs duties.

Personally, I should much prefer to see a free trade nation remain a free trade nation.

Rao Bahadur Srinivasan: I do not know whether immigration to Burma would be one more heading.

Sir B. N. Mitra: That, again, is a matter for the two governments to settle when they come into existence. That is what I meant when I mentioned Indian labour in Burma. This Committee may very tentatively deal with the position of Indian labour in Burma once it goes there. But this question of immigration will have to be settled, perhaps, on the lines of the arrangement now prevailing in regard to the emigration of coolie labour—if I may use the word—from Madras to Ceylon and other places. That will be a matter for settlement between the two governments after they have come into existence.

Chairman: Yes. Still, of course, we might make recommendations as to free passage of the subjects of one country into another, and things of that sort. We may make recommendations about them.

Sir B. N. Mitra: It does not exist at the present moment. I am prepared to say that if we consulted Sir Charles Innes he would probably ask us to leave the matter alone for the moment.

Rao Bahadur Srinivasan: It will be brought in later on.

Sir B. N. Mitra: Yes, for the two governments to consider. We cannot lay down the law for the two governments.

Chairman: Quite true, we cannot; but we might suggest certain large principles. Whether they are adopted afterwards or not is another matter. As I said in my opening remarks, I am very anxious that the separation between Burma and India should be an entirely friendly one, and that the relations between the two countries should continue on an entirely friendly basis, as friendly after separation as it was before; so that they should work together.

Sir B. N. Mitra: I fully share that hope. Unfortunately I feel that it will end up in a pious wish, for the simple reason that India will want money. I am talking now about what we call the fiscal portion of it, if India is going to lose money in connection with the excise. Sir Walter Layton himself said that will probably have to be done in regard to petroleum, and India will miss the tariff on imported petroleum.

Chairman: Of course it is possible to have customs tariffs and agreements about tariffs without quarrelling about it. You need not fall out with another country because it wants a customs tariff for its own purposes. What I an anxious about is that the feeling between the two countries should be and should continue to be as good as possible, and that everything should be settled with a desire for good will and for working well together.

Mr. O. de Glanville: It would very much accentuate the friendly feeling between the two countries if this Committee endeavoured to avoid, as far as possible, settling anything in the nature of a constitution for Burma. The people of Burma undoubtedly do feel

and will feel that they are the people who must be consulted first. As regards the Indians in Burma they are the people who best know what protection they want. I think it would be foolish and unwise of us to lay down even general principles on points about which many people here are imperfectly acquainted. The suggestion will come from us at a later stage that, on the Conference which meets here, Indian interests and all the minority interests shall be fully represented; so that every minority will have an opportunity of representing its case. As I said it would be unwise for us in any way to fetter the Home Government or the Indian Government by premature recommendations when we have not the full facts on which to base them.

Chairman: Of course, it is no part of our duty, under our terms of reference, to draw up a constitution or even a skeleton constitution for Burma. If we get into any danger when we come to those matters of going too far no doubt you will call attention to it.

Sir B. N. Mitra: Mr. de Glanville has practically reinforced my remarks. If we were to give advice about the financial settlement, it might be the sort of advice that was likely to be resented in India and also in Burma, perhaps. The same is true in regard to fiscal questions and matters connected with emigration and labour. As I say, Mr. Glanville has reinforced my observation that these things will have to be left for settlement between the two High Contracting Parties when they are High Contracting Parties.

Mr. Mody: Unless we have some sort of assurance, and we want an assurance of some sort, as to the main principles on which separation is to be effected, how is it possible for any one of us to give consent to separation. While it may not be open for any body to raise the question again in the full Committee, it will certainly be open to do so in the full Conference. The Committee, of course, is not the Conference. Therefore, my feeling would be entirely to agree with you, Mr. Chairman, that we must give an indication in a general sort of way of the main principles on which the separation might be effected.

Chairman: Let us find out, when we come to discussing the actual subject, where we are and what our views are. You see that we are to consider the nature of the conditions which will enable Burma to be separated from India on suitable terms. It does not say that we are to consider the suitable terms; we are to recommend the best way for securing this end. When we come to each subject, I think we had better take them one by one and see where we are. It is rather difficult to deal with them now in a general discussion.

Sir B. N. Mitra: Mr. Mody cannot, in regard to the big general principle, commit his friends in India; because that, again, will be a matter for the Government of India at the time and for the government and people of Burma. He is looking forward to a sort of popular government in Burma, and to a sort of popular government in India. I, therefore, entirely agree with his remarks. I think at the full Committee I agreed rather with the Marquess of

Reading, and I am not sure what the functions are to be of this Committee.

Chairman: I have no desire to extend its functions at all. I agree that we shall have to limit ourselves to generality and not go too far also in regard to them. I am hoping that we shall conclude our labours next week.

Lord Peel: That seems to be a very satisfactory suggestion. I think that we are a little too nervous about details and advice, and about giving advice at all. If we give advice it may not be taken; it very often is not taken. But I do not think that should prevent us giving our views quite freely without going into details. The details of any sort of convention between the Indian Government and the Burmese Government about tariff duties have to be considered by them very minutely. We are going to consider the matter here in such a way as to enable those to whom we report to arrive at a conclusion. I am extremely interested to hear that the Chairman is a free trader but I was only hoping that, as Under Secretary of State for India, his free trade feelings were not outraged by the views held in India on these questions of protection.

Raja Sher Muhammad Khan: If we are not to discuss financial, fiscal, and other questions, but must leave them to the Government of India and the Government of Burma, what is the use of this Committee?

Chairman: I think we had better wait until we come to each question and then see where we are. Any advice tendered by this Committee need not be taken, as Lord Peel said. The whole question as far as those who are responsible for framing the constitution and carrying out the relations between the two countries afterwards are concerned will stand in the same position as the Simon Report. The Simon Report is there for anybody to see.

Sir B. N. Mitra: Our position is different. We are having a Round Table Conference and we may discuss questions. The Simon Commission was simply asked to report. Our function, as I understand it, is something higher than that.

U Ba Pe: The function of this Committee, as I understand it, is to find out ways and means for giving proper effect to the separation. It would seem that we must provide machinery for that. We should not go into details but simply suggest the machinery for the purpose. That we can do by suggesting that the matter of finance should be left to the Governments concerned, with the advice of experts if necessary. We need not go into details on the point.

Mr. Foot: Our business, as far as I can see, is to ascertain what questions have to be answered and what difficulties to be faced. It is not for us to find answers in many cases or to solve difficulties. The ascertaining of the questions to be answered will be a very important function for us to perform.

Chairman: Yes, I think that is very largely true.

Mr. Foot: I think we shall find enough to do before we have finished on Wednesday.

Raja Sher Muhammad Khan: When Burma is separated it will not allow Indians to go in.

Sir B. N. Mitra: Even now there are difficulties I know.

Mr. O. de Glanville: The only tax is that levied on passengers into Burma.

Sir B. N. Mitra: I have myself visited Burma and have not been charged a tax. I am referring to coolie labour going in.

Mr. O. de Glanville: The money is used for the development of Burma.

Sir Hubert Carr: It might lead to wholesale migration.

Mr. O. de Glanville: The tendency is to keep the Indian there and not to keep him out. There is one other point, namely, whether this Committee will consider it within its province to suggest to His Majesty's Government through the Conference that there should be, if Burma is separated, a declaration made as recommended by the Government.

Chairman: That is one of the questions that I have put down already. Of course a declaration can only be made after the Plenary Conference.

Sir B. N. Mitra: And even then it will have to go through Parliament, will it not?

Chairman: No, I do not think so.

Mr. O. de Glanville: The pledges were not given by Parliament.

Lord Peel: It was, presumably, included in the Act of 1919. I suppose that one being Statutory the other is.

Chairman: A declaration will not require the assent of Parliament.

Sir B. N. Mitra: I do not know the procedure here, but a declaration which amounts to an amendment of the Government of India Act would require the consent of Parliament, I take it.

Lord Peel: I think Lord Russell was thinking of something else—not of an Act of Parliament but a declaration.

Chairman: I think what is desired is that His Majesty's Government in this country should announce that they have accepted the decision of the Conference on the separation of Burma and that the necessary steps should follow. That is what you want is it not?

Mr. O. de Glanville: No. We want something more than that. There are declarations by Parliament, by the Viceroy and others and by the Government that the ultimate goal is responsible self-government. Those promises have been given to India, and Burma is nervous that if she is separated she can be told by those interested: "All these pledges do not apply to you." It has been pressed for that a declaration should be made that it does apply to Burma just as much whether she is part of India or separate.

Chairman: You, I understand, want that included in the declaration.

Mr. O. de Glanville: Yes.

Sir B. N. Mitra: That would clearly be a Parliamentary declaration.

Mr. O. de Glanville: An announcement by the Prime Minister.

Chairman: It is not a Parliamentary declaration; it is a declaration of what the Government intends to do.

(The sub-Committee adjourned at 12-20 p.m.)

PROCEEDINGS OF THE SECOND MEETING OF SUB-COMMITTEE NO. IV (BURMA) HELD ON 8TH DECEMBER 1930.

Chairman: You have had circulated to you the draft resolutions and if you think the matters can be usefully discussed, I think we had better take them now. The first resolution is " that the Committee ask His Majesty's Government to make a public announcement that the principle of separation is accepted and that the prospects of constitutional advance held out to Burma as a part of British India will not be prejudiced." I do not know whether anybody wants to say anything on that.

Mr. Mody: What does that mean? Does it mean that we are not to say anything about the sort of constitution that Burma is to have?

Chairman: I think that will be a matter for the Burmese Conference to settle. I do not think we are concerned with that.

Mr. Mody: You will probably at the end come to a conclusion about the advisability of the separation of Burma. It will be very difficult to come to any conclusion unless we know the sort of constitution Burma is likely to have. There is a passage in the Government of India Despatch that certain definite declarations should be made with regard to Burma. This seems to me the proper time at which that might be considered.

Chairman: Yes. So far as the declaration is concerned I have a form of words here. That was raised here last time and I have a form of words which I think would meet the position. The form of words I suggest is " That the Committee ask His Majesty's Government to make a public announcement "—that of course would be after a Plenary Session of the Conference had approved—" that the principle of separation is accepted and that the prospects of constitutional advance held out to Burma as part of British India will not be prejudiced by separation ". I think that is as far as the Committee can go. We cannot go into the details of the constitution, that must be a matter for Burma to settle.

Mr. Mody: That may be, but I think something more is needed than the words you have just read out. After all, those words do

not go as far even as the Government of India Despatch. The Government of India Despatch said it must be plainly declared that the constitution would be related to the various pronouncements of policy made in 1917 and 1919 and so on.

Mr. Foot: There is a statement in the Government of India's Despatch, and in the Despatches from Provincial Governments, there is a passage which I think I might read in paragraph 7 of page 240. It covers the point as far as I can see, and this is endorsed, as Mr. Mody said, in the Government of India Despatch. The passage to which I refer in the Despatches from Provincial Governments reads:

" It is of great importance that it should be made clear beyond all possibility of doubt or question that the separation of Burma will not involve for Burma any departure from the statement contained in the preamble to the Government of India Act, 1919, that the objective of British policy is the progressive realisation of responsible government in British India as an integral part of the Empire. As the Commission say, that statement constitutes a pledge given by the British nation to British India. When the pledge was first announced in August, 1917, Burma was a part of British India. The pledge, therefore, was given to Burma as well as to India, and even if Burma is separated from India, the pledge **still stands for Burma unimpaired and in all** its force. The Government of Burma could not possibly agree to separation on any other terms, and they trust that His Majesty's Government will see fit to set at rest any doubts that may still exist on the subject by the wording of the terms of reference to the Commission. They attach importance to the point, for the allegation is frequently made in that section of the public press of Burma which is opposed to the recommendation of the Statutory Commission that the British Government will seize the opportunity of separation to reduce Burma to the status of a Crown Colony."

That is the passage endorsed by the Government of India. The procedure contemplated is that if separation is agreed to there shall be set up a Commission, and that that Commission should go into the various matters and should indeed be the Commission for the setting up of the constitution. It was contemplated that the Committee should consist of Members of Parliament. It was discussed whether that Commission should include members of the Burmese Government as well, but the point was that the interests concerned could best be dealt with by representatives of the Commission set up. The only way the constitution could be dealt with would be by the setting up of a Commission in some form to be decided later.

Sir B. N. Mitra: The point is that the prospects of Burma for constitutional advancement are to remain unaffected. That is brought out in the passage quoted by Mr. Foot. That being so if we simply affirm that the prospects held out remain unaffected, the point would be met.

Chairman: I think that the draft resolution I read out does exactly meet the point. The prospects of Burma will not be pre-

judiced by separation. I think that exactly meets the point. If you look at Clause 90 of the Government of India Despatch you will see it is suggested " that an announcement should be promptly and publicly made that the policy of separation of Burma from British India has been approved, and that consideration will at once be given to the question of the new constitution of Burma ". Does not the form of words I have read cover the point raised? The position of Burma is not to be prejudiced in any way.

Lord Peel: Surely the statement which the Chairman read makes it perfectly clear.

Chairman: If we all mean the same thing it is only a question of words. I should have thought this form of words which I have read covers in terms what you mean.

Mr. Foot: Would it meet the point if instead of "unprejudiced" you used the word " unaffected "?

Chairman: The form of words proposed is " that the Committee ask His Majesty's Government to make a public announcement that the principle of separation is accepted and that the prospects of constitutional advance held out to Burma as part of British India will not be prejudiced by separation ". Does not that cover the point?

Mr. Mody: It covers the point, but I do not think it is as precise as the Government of India Despatch. That Despatch says:—

" When the announcement of August, 1917, was made, Burma was, as it now is, a part of British India. The progressive realisation of responsible government was promised to Burma equally with the rest of India. It is important that the pledge then given should be reaffirmed to a separated Burma."

My point is that there should be a clear reaffirmation.

Chairman: I should have thought myself that nothing could be clearer than this. The position of Burma is not prejudiced. That means that it stands at least as well as it did.

Mr. Mody: If the rest of the Committee are satisfied I have nothing more to say.

U Ba Pe: It is clear that if separation is carried through, the Burmese people should have a guarantee of the status which their Government should occupy.

Lord Peel: After you have got the constitution of course.

Mr. Foot: What was contemplated was that there should be some expression of opinion that would meet the requirements of the Burmese people. Could not that be considered later?

Chairman: We have not settled the status of India yet, or its exact status, in terms.

U Ba Pe: The Burmese status should be the same as for India as India will be.

Mr. Foot: It might not be the same.

Mr. Mody: The Government of Burma, any way, indicated clearly what they had in view when they said it must not be regarded that Burma is going to be a sort of Crown Colony. If I were to take up an extreme position, why should I agree to anything at all on the principle of separation, if Burma is after all going to be a Crown Colony?

Chairman: I think we are all agreed about that.

Mr. Mody: I wanted a clearer definition, that is all.

Chairman: I do not think at this stage we can very well go further than this. This resolution says that everything will remain in force that has been promised to Burma as part of British India. It will not be prejudiced by that, and therefore it will be in at least as good a position as it was before the separation. I do not know whether the Burmese delegates think it goes far enough, and makes it clear.

Mr. Ohn Ghine: I think as far as this sub-Committee goes, it is probably all right, but I think Burma would look for a fuller declaration by His Majesty's Government.

Mr. Foot: And that would not be this Assembly. They were not looking to this Round Table Conference at the time they made that request. They expressly asked that it should be in the terms of reference to the Commission when it should be set up. That is the time to see to the exact wording.

Chairman: Yes, I think you will find full implications of that when you have the reference to the Commission or Conference, or whatever it is that sets up the Burmese Government. Here we are simply saying, " No worse off than we were before ".

Mr. De Glanville: What I take it this Committee is doing is asking His Majesty's Government to make a declaration, and that declaration would naturally be more full than this recommendation.

Chairman: I understood that the object was that an early declaration should be made by His Majesty's Government—that is to asy, within a week or two.

Mr. Mody: Would not the Plenary Conference, or His Majesty's Government later on, when they appoint a Commission for Burma, look to the recommendations of this Committee for an indication?

Mr. Foot: It seems to me that we shall have to consider the recommendation as to the setting up of the Commission.

Chairman: I am not sure whether we shall.

Mr. Foot: I did not know. I beg your pardon. I thought that would be so.

Chairman: May I take it this way, that we will agree to this provisionally to-day and if you like I will have this resolution circulated to the Committee, and we will consider it again to-morrow and see whether there is anything in the words which needs improving. I think myself that it is quite without ambiguity. Shall we take it that way for to-day?

Mr. Mody: If you please, Sir.

Chairman: Our next one is " Before separation can be effected, a new constitution must be devised for Burma. Should the Committee stipulate that protection must be afforded to the legitimate interests of Indian and other minority communities in Burma?" What other minority communities are there?

Mr. de Glanville: There are Indian, Anglo-Indian, Chinese. On this point I have been considering the matter, and talking with one or two members, and I have drafted a resolution which, if you will allow me, I will read, and which possibly might from the basis, any way, of discussion. It reads as follows:—

> " The Committee is of opinion that the legitimate interests of Indian and other minorities must be safeguarded. It is not in a position to advise as to the particular form of protection these interests require. It considers that when the details of the constitution of Burma are being discussed, the fullest opportunity should be given to all minorities and to the Government of India to represent their views and to state the nature and extent of the safeguards they consider necessary. The Committee considers that adequate attention should be paid to the question of immigration of Indian Labour and that provision should be made for the regulation of the conditions of both the work and life of the immigrants and especially stresses the importance of there being no discrimination as regards Indians entering Burma."

I think that all the Burma Delegates would agree to something of this nature, and I think that public opinion in India and among the Indian delegates requires that there should be some recommendation of this kind from the Conference.

Chairman: " The conditions of both the work and life," I suppose, means something corresponding to what the Government of India do in Ceylon.

Sir B. N. Mitra: That is right, in Ceylon and Malaya.

Chairman: Discrimination as between whom?

Mr. de Glanville: As regards Indians and others entering. I will ask Sir B. N. Mitra to explain that. I put it in after consultation with him. The idea is that if there is to be any legislation excluding, say, coolies or paupers, it should not be directed at Indians only; it should include all coolies and all paupers. If, for instance, there is a tax on people coming in, it should be on all people coming, and not only on Indians. If we legislate and say that a man is only allowed in if he has work to come to, or must have so many hundred rupees when he lands, that must apply to all immigrants and not only to Indians. That, I think, is what is intended.

Sir B. N. Mitra: That is what is intended.

Mr. de Glanville: I would leave Sir B. N. Mitra to explain that.

Sir B. N. Mitra : I think you have explained quite correctly my intention when I agreed to this form of words.

Mr. Mody: I suppose that this includes commercial as well as political interests.

Mr. de Glanville: Yes, it includes everybody.

Mr. Mody: It means both commercial as well as political status?

Mr. Foot: What is recognised there is that the Government of India is to be able to express its opinion. That is in accordance with the Government of India's Despatch when it says that " the Government of India could not therefore disclaim all concern in the framing of a new constitution for Burma, and we would expect that in the process of enquiry Indian opinion would be given adequate opportunity to be heard on all matters touching Indian interests in Burma ". I gather that this had regard to that passage.

Chairman: That is what I said last time—that obviously in framing the Burmese constitution the Indians would be interested to the extent of seeing that the minorities were protected and their minority in particular.

Mr. de Glanville : Yes, of course, I put in the Government of India there, thinking that the Government of India would be likely to express the Indian view; but of course the best people to say what is required are the Indians in Burma, so I want both to be heard, and it was therefore drafted in that form.

Sir B. N. Mitra: Of course, there are both classes in Burma—the Indians in Burma and the Indians in India who may have business interests in Burma, and the second class would not make direct representations to the Government of Burma, they would make representations to the Government of India who, after considering their views, would express their views either to the Burmese Government or to the British Government.

Chairman: Labour immigration is practically free in Burma, is it not?

Sir B. N. Mitra: Yes, practically so.

Chairman: So that any legislation of that sort, however general in form, would really be dealing with Indian immigration of labour, would it not? I was thinking of a case of this kind. Suppose the Burmese Government thought that for various reasons —there may be a great many reasons—not so many were wanted in any particular year, and wanted to limit the number, would that be considered discrimination as regards Indians entering?

Sir B. N. Mitra: If the Government of Burma were allowing the free entry say, of Chinese labourers, and restricted the entry of Indian labourers, that would undoubtedly be discrimination, but so long as they passed statutory rules or legislation that the entry of labourers into Burma should be restricted, it would be all right.

Mr. de Glanville: Apart from Indian labour, at times there is a very large influx of Chinese labour. We import them largely

into places where we have mines. It is almost entirely Chinese labour in those parts. We have Chinese labour coming up from Penang to work the ships.

Lord Peel: But am I wrong or not in saying that most of the labour that comes to work in the paddy fields is Indian?

U Ba Pe: They are Indians.

Lord Peel: The Chinese immigration is important in certain lines, but it does not affect that particular class of immigration, does it?

U Ba Pe: No, it does not.

Mr. de Glanville: I was only raising a point in this connection, that supposing for various reasons the Burmese Government thought that there was too large an amount of Indian labour being contracted for to come over in a particular season, and supposing they said, "Well, it shall be limited to such and such a number" —I will take 20,000—apparently under this the Government could not do it, because you would also have to make some limitation about Chinese labour. It might be that the Chinese labour was doing something different, and you might not want to limit that.

Sir B. N. Mitra: That would be discrimination.

Lord Peel: It would be, but you might want to discriminate, might you not? I am only raising the point.

Sir B. N. Mitra: Indian opinion would undoubtedly object to it. They would not regard it as an expression of good-will on the part of Burma. If you had to pursue that to its logical and furthest conclusion, well, Burma might want to replace Indian labour by Chinese labour. That would not be an expression of good-will.

Lord Peel: That would not, certainly.

Sir B. N. Mitra: Who is going to decide these matters? For that reason we have put it in this general form.

Lord Peel: But I can easily conceive of cases, for instance, we have a good deal, in this country, of Irish labour coming over to work in the harvest. Well, if a smaller number is wanted, if the harvest is bad, notice is sent out to say they may not come.

Sir B. N. Mitra: That is another matter, because immediately Burma is separated I feel sure that there will be an immigration officer in Burma, and he will pass out the notice that no Indian labourer need come in; but all I am trying to safeguard here is discriminatory action by the Government of Burma. The one thing is voluntary; the other thing is what I might call enforced.

Lord Peel: I see; one is done in the ordinary commercial way, and is done sufficiently already. You think the Government need not step in at all?

Sir B. N. Mitra: That is my point—that the Government of Burma must not take any legislative action, or must not pass legislative regulations which will have this effect, as it will show that they are making discrimination which will immediately destroy goodwill. On the other hand, the immigration officer of

India in Burma will say that there is no employment at the present moment, and therefore Indians should be restricted from coming.

Lord Peel: You mean that the immigration agent would do it, and not the Government. That is what it comes to?

Sir B. N. Mitra: Yes.

Rao Bahadur Srinivasan: There was a good deal of trouble about that. So many laws and regulations were made, and similarly this may happen in the course of time.

Sir B. N. Mitra: As a matter of fact, that is precisely what I had in view. Enforced repatriation took place, which practically means discrimination.

Mr. Foot: This, I take it, my Lord, should be an instruction to whatever authority has to deal with the actual framing of a Burmese constitution?

Chairman: Yes, I understand the whole of these sentences in this resolution to be an indication of what the Committee think ought to be taken into consideration—certain aspects of the case which the Committee think ought to be taken into consideration in framing the constitution. That is really what the effect of it is. They are things that obviously you would have to take into consideration. I do not see any objection to this.

U Ba Pe: This suggestion assumes that the majority in Burma will control the policy of the Government. If the majority does not control the policy of Government, then there is no necessity for special protection of the minorities, because the minorities will be controlling the policy, as at present in Burma.

Chairman: Well, I am afraid I do not understand the last sentence.

Mr. Foot: It assumes a responsible government.

U Ba Pe: In Burma the Indians and other minorities combined, and they are running the whole show there, so what you want is special protection for the majority. If it is a popular form of government, then I agree that the minorities must be protected.

Sir B. N. Mitra: This refers to a new form of government, in which I, for one, hope that the Burmese will have the fullest possible self-government.

Mr. Mody: They do not propose that Burma should be run by Indians. I would like a little enlightenment on these words—"provision should be made for the regulation of the conditions of both the work and life of the immigrants".

Sir B. N. Mitra: Yes, that follows what has been done both in Ceylon and in Malaya.

Mr. Mody: Would that exclude the sort of thing which took place in South Africa, where educational and other tests were laid down for the immigrant labourer, or would it merely mean this,

that so long as the Burmese Government made regulations for all the immigrants, Indian as well as Chinese, no more will be said about it.

Sir B. N. Mitra: The second part really comes in in the last passage—that there will be no discrimination as regards Indians entering Burma; but if the Burmese Government of the future lays down a general restriction that no labourer should be allowed to enter Burma who does not possess certain minimum educational qualifications, I for one do not see how you could stop it. I should certainly object to their having one rule for the Indians and another rule for the Chinese, but to a general rule which the Government of Burma for the future might desire to lay down, I for one, cannot possibly see any objection, and that is the reason I used the word " discrimination ".

Chairman: When they import Indian labourers into Burma, do they import them for the purpose of passing examinations or for the purpose of doing work?

Sir B. N. Mitra: What Mr. Mody was referring to was this. In South Africa you have got the educational test now, and people who do not possess a certain amount of English education will not be allowed to enter South Africa. That is what Mr. Mody is referring to.

Chairman: Yes, but that is because South Africa, as an independent Dominion, is discriminating against Indians, is it not?

Mr. Mody: But supposing an independent Burmese Government discriminated against us?

Sir B. N. Mitra: That is why I put in the last sentence.

Mr. Mody: I quite see the point, but these words, I think, do not carry out that objective.

Sir B. N. Mitra: Why not? They very fully carry it out. The first point is, the labourer enters Burma, and it would be said there should be no discrimination against him. The previous passage refers to the labourer after he has got into Burma. Then there should be a regulation of both the work and life. As soon as there has been an immigration, then there should be regulation of work and life, exactly as is happening now in Malaya and Ceylon, but before he becomes an immigrant there should be no discrimination against him as compared, say, with the Chinese labourer. So the wording there makes it quite all right.

Mr. Mody: Do I understand you to say that while the future Government of Burma cannot discriminate against Indians in the sense that they cannot give them less good terms than they would give to the Chinese, it would be open to them to give them less favourable terms than to the Burmese.

Sir B. N. Mitra: The Burmese are inhabitants of the country. That is the fundamental difficulty. I personally see no objection to their laying down that before anybody comes into Burma he must possess certain fundamental qualifications, be he a Chinese or be he an Anglo-Indian or he an Indian. To that, from the point of

view of the people of Burma, I cannot see any objection, but the Burmese Government of the future must not make a discrimination against the Indians in that matter. If South Africa had laid down a regulation that this applied to everybody, I do not think India would have objected.

Rao Bahadur Srinivasan: I do not think any discrimination should be made between a labourer and any other men, merchant or tradesman, who goes there. If anybody goes there, if he is domiciled he gets the domiciled right, and his children are bound to get the same education as anyone else in Burma.

Mr. de Glanville: But this does not refer to labourers here.

Rao Bahadur Srinivasan: No separate law should be made for that.

Mr. Mody: We should separate the sentence, because the sentence begins with immigrant labour.

Mr. de Glanville: Why not put "no discrimination" up higher?

Sir B. N. Mitra: Well, put a full stop after "immigrants", and then say "The Committee also specially stresses the importance . . ." That would meet Mr. Mody's point.

Chairman: Make a new sentence of it.

Mr. Shiva Rao: I want to suggest that in the very last sentence as regards entering Burma, I should like to elaborate it a bit by saying Indians entering or resident in Burma. I am thinking of the difficulties that Indian labourers in Ceylon had recently with regard to the exercise of the franchise. I think it would be well to safeguard against similar difficulties arising in Burma.

Chairman: In Ceylon you asked for the best of both worlds, did you not? You both asked that you should exercise the franchise as a native, and that you should be protected by the Indian Government as an alien.

Sir B. N. Mitra: What Mr. Shiva Rao says is, "it considers that when the details of the constitution of Burma are being discussed, the fullest opportunity should be given to all minorities and to the Government of India to represent their views". It is really a limitation of that provision, it is not a new provision; and whether this Committee should recommend the limitation of that provision immediately, or leave it to that particular settlement, is a matter open to consideration. I, for one, would leave it to be settled as part of the general proposition.

Chairman: I think you are right. I think "minorities" is fuller. It gives you the opportunity of the minorities in the country being represented and making representations to Burma.

Mr. Foot: And, of course, we have here the really important principle that the Government of India shall be able to make whatever representations are needed on behalf of Indian subjects. It is not that they would be confined to the precise wording, or that they would consider themselves to be within the four corners of

this. They have then got their status and this is simply an indication of where we think the enquiry should be. They will not be bound down by these words at all, and they will make all their representations before the body making the Constitution.

Mr. Ohn Ghine: I should like to suggest that the last paragraph be omitted. I do not believe in forcing the good-will of the Burmese Government by legislation, nor do I believe in tying up the hands of the Government so that it can do nothing. I think it will be sufficient if the point is referred to the Committee set up to draw up the Constitution later on.

Sir B. N. Mitra: I rather prefer to keep the words because they express the views at least of probably all the Indian members on this question.

Chairman: There is no harm in saying that in framing the constitution attention should be paid to this point, and then you can see later whether there are any constitutional provisions to be inserted. As I said the other day—and I think I was a little misunderstood—when I said that our Report in this Committee in a sense resembled the Simon Report, I think it was a little misunderstood, but what I meant was this, that so far as Conference that settles the Constitution of Burma is concerned, this will merely be one of the reports and pieces of advice that is before it, just as the Simon Report is one of the pieces of advice that is before this Round Table Conference. I think it will probably be the most convenient form for everybody that we should consider these resolutions as we pass them for the time being, and bring the lot up together at our last meeting, as a whole, to see that they cover everything. We will have them circulated in time. Subject to that, would the Committee be prepared now to agree to this expression of opinion under head No. 2.

(*Agreed.*)

Then we might go on to No. 3, "Similarly, there must be a financial settlement. Can the Committee suggest how best this financial settlement should be effected? Does it wish to make any suggestion as to the spirit in which the problem should be approached?"

U Ba Pe: The suggestion given in the Governor of Burma's Despatch was quite good.

Chairman: Could you refer me to the page?

Mr. de Glanville: Each Government should state a case, and refer it to impartial arbitrators. That is it briefly.

Mr. Foot: And they want neutral and impartial arbitrators. It is on page 246 of the "Reforms Despatches from Provincial Governments in India". "It is believed that by correspondence and negotiation between the two Governments, it will be possible to reach not indeed agreement on all the points at issue but an agreed statement of the case, and it is proposed that this agreed statement of the case (or if even this measure of agreement cannot

be reached, the views of the two Governments) should be laid before a Board of neutral and impartial arbitrators." All they are anxious for is that there should be a neutral and impartial enquiry. Assessors can be there representing the opinions of both Governments, and that is probably the clearest way of arriving at a decision. I should have thought that it was open to this Committee to endorse that recommendation.

Chairman: This is the Government of India Despatch, para. 93: "It is clear that the separation of the finances of the country will raise extremely difficult issues, requiring close expert analysis, in the decision of which it will be essential to hold an even balance between what may be conflicting claims. We agree with the local Government that the best method of approaching this difficult problem is to endeavour, by mutual co-operation between the Government of India and the Government of Burma, to draw up an agreed statement of the case for reference to an impartial tribunal. The subjects requiring settlement will be of a technical nature, and will include, besides the normal questions of the adjustment of revenue and expenditure, such matters as the allocation of debt charges and the adjustment of currency arrangements. No constitutional Commission could deal satisfactorily with these questions, for its functions would be entirely different, as also its probable method of enquiry. In arriving at a financial settlement the main point to be considered is the need for satisfying public opinion in both countries that each is being fairly treated. Indian public opinion would watch this aspect of the arrangements very jealously, more particularly the allocation of debt burdens. We believe that a Committee of the Privy Council would be the sort of tribunal most likely to satisfy Indian opinion. Their decisions could be given on evidence placed before them, assisted by expert witnesses, or possibly assessors, from India and from Burma." You will remember that I suggested, as a development of that, that it might be advisable that two or three members of the Legislature of each country should be associated with these experts, just to make sure that the case was properly presented, and really to transmit to the public the fact that everything had been properly done and presented.

Lord Peel: I was not quite clear what that meant, because they talked about experts and it sounded judicial.

Chairman: They did mean a judicial or *quasi* judicial settlement in the end.

Lord Peel: Do they mean judges?

Chairman: I agree that it seems an extraordinary thing.

Sir B. N. Mitra: It is apparently the judges of the Privy Council who would be advised by assessors, and I think the Government of India are correct in stating that only a judicial decision will be really acceptable to Indian public opinion. I do not know much about the public opinion in Burma.

Chairman: I know. I should have thought that it was an inappropriate decision. Of course, you will get a perfectly fair opinion from the Privy Council.

Sir B. N. Mitra: There had been some similar subjects in the past. For instance, India's differences with the War Office have occasionally been referred to the Lord Chief Justice of England, and perhaps a decision by judicial authority will be more acceptable to either country.

Mr. Shiva Rao: Is not the constitution of a tribunal being contemplated for the settlement of disputes resulting from the last Imperial Conference?

Mr. de Glanville: May I say that the Burma Delegates, I think, would be perfectly prepared to leave it to His Majesty's Government to appoint the arbitrators.

Chairman: That is what in fact would happen, but I understand the suggestion of the Government of India is one that would give the greatest confidence to both countries. Of course, that is an important item, and no doubt when the time comes that will be considered. But I would again, if I might—it is included in the last head here under No. 3—call attention to this: "Does it wish to make any suggestions as to the spirit in which the problem should be approached?" Now, I should be very much inclined to suggest that instead of a legal enquiry, with a Conference going into all possible figures, and all possible claims and counterclaims being raised by Burma against India and by India against Burma (and we most of us know what those claims are on both sides) it might be possible to settle the thing in some friendly way very easily, if there was a friendly spirit on both sides. India is inclined to think that for some things Burma owes it considerable sums of money. Burma, on the other hand, is inclined to think that there is a considerable set-off against that. That really is the position, is it not, and I should have hoped that it might be approached in a friendly spirit and possibly settled without what, as it seems to me, would be very great expense. Of course, there are definite things which you would have settled by a Commission —the posts and telegraphs, the railways, and so on—things that are physical assets that are going to be handed over; but the general questions between them, I should have thought, could have been settled almost by agreement.

Mr. de Glanvelle: I think that is the idea of the Government of India—that we should only submit the points of dispute. Wherever the Governments can agree, there would be nothing to refer.

Sir B. N. Mitra: I should prefer to endorse the views of the Government of India, but once we try to give that advice to a third party, the advice may be misunderstood. It is quite possible that when preparing the statement of the case there may be a great deal of good-will, but when we try to impress it upon third parties, it may have just the opposite effect.

Mr. Foot: It says "a committee of the Privy Council". What would that be? It is a very general term, is it not?

Lord Peel: If it means the Privy Council, I do not object, but I should have to dissent if it was really said that disputes of this kind, in which fact and history largely enter, and in which there is not much law, should be settled by judges. I think judges are very good, of course, in dealing with law. I do not think they are equally good at dealing with all questions where finance, and the balancing of some of these great policy questions, come in.

Mr. Foot: Do you think that was meant by this when they say "we believe that a committee of the Privy Council"—it is a small "c".

Chairman: We were talking as if it was the Judicial Committee.

Lord Peel: May I just say that I do not want it settled by judges. So long as there is no objection to that my point fails altogether.

Chairman: What is really wanted is consideration by honest people of common sense.

Sir B. N. Mitra: I think the question of referring it to any tribunal set up by the Imperial Conference ought to be considered.

Chairman: I do not think we had better tie ourselves up with another Conference.

Sir B. N. Mitra: It is not a question of tying up. If, for example, both governments found there would be a committee set up by the Imperial Conference and both countries became, as they probably will become Dominions, they might prefer that the matter should be settled by the Standing Tribunal set up by the Imperial Conference.

Chairman: Do you not think we can find at least as good a Committee?

Sir B. N. Mitra: I am not questioning the efficiency of a particular Committee. I am only looking at it from the point of view of which machinery would be the more acceptable to both parties.

Chairman: If it is more acceptable, that is a reason for adopting it. I agree.

Mr. de Glanville: I think that the Committee of the Privy Council would be more acceptable to Burma than an unknown Committee to be formed in the future. We do not know what the Committee to which Sir B. N. Mitra refers, is going to be. The Privy Council is known.

Sir B. N. Mitra: This Standing Committee has been formed by the Imperial Conference.

Mr. Foot: Has that tribunal any competence to deal with finance?

Sir B. N. Mitra: I am told that it will deal with all disputes between Dominions relating to finance and other matters, but I do not know much about it. I have not seen the details.

Chairman: May I read this suggestion to the Committee and see if we are agreed?

> "The Committee consider that there must be a financial settlement between India and Burma. The questions are very difficult and technical and the Committee consider that they should be realt with in the manner recommended by the Government of India in paragraph 93 of their Despatch. The Committee also recommend that when the case has been thoroughly explored by the experts of the two Governments the statements prepared by those experts should be laid before the Standing Finance Committees of the Indian Legislative Assembly and the Burma Legislative Council respectively and that representatives of those Committees should be associated with the experts in the proceedings of the Arbitral Board. The Committee also endorse the view expressed by the Government of India in paragraph 86 of their Despatch regarding 'the great desirability . . of adjusting the relations between the two countries in a spirit of reason and mutual accommodation, so as to avoid as far as possible the ill effects which might arise from so great a change in long-established practice.' They venture to express the hope that all negotiations between the two Governments whether in relation to the financial adjustment or to other matters will be approached in this spirit."

That I think expresses roughly what we have been discussing.

Sir B. N. Mitra: It leaves the precise agency open. I have no objection to that.

Chairman: Then I take it that is agreed.

(Agreed.)

Chairman: The next head of subject for discussion is No. 4. "Before separation, adequate arrangements must be made for the defence of Burma. Can the Committee usefully make any remarks on this subject?"

Sir B. N. Mitra: I think we can only endorse the statement. The Government of India have passed on the views of the Commander-in-Chief. He says there will be no difficulty. I believe that that is all that is wanted. I for one would not feel competent to make any specific suggestion on the subject. I do happen to have been associated with the Army in India for 10 years, but on a matter of that sort I should hesitate to make any specific suggestion. I think we need only accept the principle and leave it to be discussed separately.

Chairman: What it comes to is that there is no military objection to separation of the two armies. I understand that, but Burma no doubt would have to consider where its army is to be obtained. It might have to enter into arrangements with India for the purpose.

Mr. Mody: Would you not decide that if military defence is to be separate from India that a Committee should be appointed to consider the adequacy of the arrangements made by Burma?

Sir B. N. Mitra: I think we need only subscribe to the statement that before separation adequate arrangements must be made for the defence of Burma.

Chairman: The Committee recognises that adequate arrangements must be made for the defence of Burma after separation but the precise nature of those arrangements must be decided in the light of expert military opinion. I should think you would probably all agree to that.

Sir B. N. Mitra: Is there any objection to adding that it should be decided on the advice of a separate Committee?

Chairman: Is not that all a matter of arrangement by those who deal with it on behalf of each Government? They must decide it in the light of expert military opinion. That I think will be agreed. The military experts will not decide, but the Committee must get their advice before the Committee can decide.

Sir B. N. Mitra: It is not a matter of material importance, but it might satisfy some members of the Committee if you put in that it should be decided on the advice of a separate Committee.

Chairman: A separate Committee of whom?

Sir B. N. Mitra: We do not recommend the constitution of the Committee. We simply follow the Government of India in their recommendation. You may have to put on members of the Legislature themselves.

Chairman: That is after the separation; that is after you have settled what you are going to do in each country; you would then constitute a Committee to co-ordinate. That is a different thing. I think you had better leave it as it is. I do not see at this stage what Committee would be best to settle it.

Mr. Mody: If you are silent about the machinery I think it would be better that you should also be silent with regard to the expert military opinion; if one thing is obvious the other should be obvious as well.

Chairman: " The Committee recognise that adequate arrangements must be made for the defence of Burma after separation but they consider that the precise nature of these arrangements must be decided in the light of expert military opinion." I do not know what other opinion could decide it except military opinion. Of course there are also financial considerations.

Mr. Mody: I suggest that it must be devised by such machinery as may be set up by the two governments. I would rather leave it in those very general terms, if you are not going to commit yourselves to the recommendation of the Government of India.

Sir B. N. Mitra: The Government of India has no recommendation.

Mr. Mody: No, with regard to the military defence of Burma after separation.

Sir B. N. Mitra: That is a different matter.

Chairman: I understand the words objected to are:—"In the light of expert military opinion." What does the Committee feel about that?

Sir B. N. Mitra: It does not limit it to expert military opinion. The people who have got to decide it will naturally take into consideration other matters.

Chairman: Of course they will; but I mean obviously the first thing you must say to your Generals is: what do we require to be defended with, how are we to be defended, how is it to be arranged? You must get that first.

Sir B. N. Mitra: I wonder if it is permissible to us to seek the advice of Sir Charles Innes.

Chairman: Certainly.

Sir B. N. Mitra: Then may we ask him if he has any suggestions to make?

Chairman: Sir Charles, you know much more about it than I do.

Sir Charles Innes: Perhaps the best thing will be for me to explain what my own views are with regard to this matter. It is quite obvious—and I think this Committee will be the first to admit it—that none of us here are competent to say what these adequate arrangements for the defence of Burma consist of. It is quite obvious also that those adequate arrangements must be made before Burma is separated; we must be sure of our security. My own view, in which I hope the Government of India will allow me to proceed, is: first, we should have a general commanding the independent district of Burma. I have mentioned that in the Despatch we wrote to the Government of India. We should be at liberty to consult the General Officer Commanding in Burma; we should get his views as to what arrangements should be made for Burma. When we have got his views I also ask that we might send up what the General thought to the General Staff of India for their advice. I have reason to believe that General Staff will be very ready to advise the Government of Burma. I think all the Committee will agree that that is a sensible way in which to approach this problem. If I may say so, it seems to me the very essential point for this Committee to make is that there must be adequate provision for the defence of Burma before it is separated and they must leave the precise nature of those arrangements to be made in the way I have suggested.

Sir B. N. Mitra: Yes; that clears up my mind; the matter is one fundamentally for Burma and not for India.

Sir Charles Innes: We should very much like to have the advice of the General Staff and they are willing to give us advice.

Sir B. N. Mitra: Yes, I accept your form, Sir.

Chairman: I think it has to be decided by the two countries, though Burma is not immediately interested in the North-West Frontier. Will the Committee agree to accept this proposal as I read it.

(*Agreed.*)

" (5) After separation subjects now classed as Central will be administered by the Government of Burma, and preliminary arrangements must be made by the Government of Burma. Can the Committee do more than record the fact."

Sir B. N. Mitra: Nothing more, Sir?

Chairman: I do not think you can. I have a note here which I think will cover it: " The Committee note the fact that arrangements for the taking over of the administration of subjects now classed as Central in the Devolution Rules must be made by the Government of Burma. The Committee recommend that it should be considered whether, subject to the consent of the Government of India and on terms to be arranged, the Government of Burma should continue to make use of certain scientific services, such as the Geological Survey of India, the Survey of India, the Indian Meteorological Department, and also the Indian Lighthouse Service ".

Sir B. N. Mitra: May I make one observation? I ask you to cut out the Geological Survey of India, I have administered that Department; it was within my portfolio. I know there is a separate section of the Geological Survey for Burma, and if there is any scientific service, in which a clean separation is possible at the present day I think it would be the Geological Survey.

Chairman: It would be quite easy, would it?

Sir B. N. Mitra: Yes, as far as I know.

Chairman: Do not you use the same headquarters and the same place for printing and publishing your records and things of that sort?

Sir B. N. Mitra: To some extent. There is a Director in Calcutta. There is a Burma party which works throughout in Burma; I believe they have now got an office in Burma and records also in Burma. I would not specifically mention the Geological Survey because it might frighten people.

Chairman: I think it might be wiser in this resolution to stop at the words " certain scientific services," without specifying any of them, because it is obvious that there are some in regard to which it might be wise to continue as at present.

Lord Peel: I suppose in this service there is an interchange of officials between India and Burma.

Chairman: After all, this Committee has only to make very general recommendations; shall we merely speak of " scientific services "?

Sir B. N. Mitra: Yes.

Chairman: Then perhaps we might say: " the Committee recommend that it should be considered whether, subject to the consent of the Government of India, and on terms to be arranged, the Government of Burma should continue to make use of certain scientific services ". Then when they get together let them decide which it is wise to combine and which it is wise to separate.

Sir B. N. Mitra: Yes.

Chairman: Will the Committee agree to that provisionally in that form.

(*Agreed.*)

" (6) Does the Committee wish to record an opinion that a Trade Convention between the two countries is desirable? " I should think it is emphatically desirable but it must be a matter for the two governments to decide. Personally, I hope the interchange of goods and passengers between the two countries will be as free as possible; you do not want to hamper trade or commerce by any restrictions. Would this form of words meet the question: " The Committee expressed the hope that it may be found possible to conclude a favourable Trade Convention between India and Burma; they believe that a Trade Convention would benefit both countries and they think it important that separation should cause a minimum disturbance of the close trade connections that exist between the two countries ". Is that the view of the whole Committee?

(*Agreed.*)

Then we will put it in that form.

" (7) Does the Committee wish to make any recommendation that His Majesty's Government should make an early announcement on the principle of separation? " We have already had that. That finishes all I have on my paper.

Mr. Ohn Ghine: In connection with item (7) would it be possible to consider the question of machinery to deal with the Constitution?

Chairman: You mean machinery to be set up to form the new Constitution?

Mr. Ohn Ghine: Yes. I have suggested that a Conference should be called.

Chairman: Yes, you have suggested a Conference to be called here, I know; but I am not sure that it is a matter for this Committee or for the Round Table Conference properly speaking, what machinery is to be set up to settle the Constitution of a new country.

Mr. Foot: There have been different suggestions. The suggestion as I understand from you, my Lord, was that there might be a special Commission for the purpose or there might be a Round Table Conference. I should think obviously the Round Table Conference cannot settle the Constitution because that would involve work of a very intricate character. The Round Table Conference can arrive at general conclusions but the framing of a Constitution would require a concentrated effort. I was very interested to see the expression

of Burman opinion upon that and the comments of the Government of India upon it also. If there is a Commission representing not only Parliament but Burma, then upon that Commission different interests must be represented, and that would result in the Commission becoming too large for that purpose. I understand it would not be inconsistent with Burman opinion if there were a Commission of qualified men with every representation that could be made by Burman opinion and by the several interests concerned. But apparently they were so anxious to proceed with the matter that they were pressing that the Commission to be set up should be doing its work in January of 1931. That is contained in a letter of August of last year. Of course that is impossible.

Chairman: That would be sooner than would be possible.

Mr. Foot: That would probably be before the Round Table Conference completes its work. I do not know whether, my Lord, you would consider between now and to-morrow whether that would come within the terms of reference. One does not want to go outside the terms of reference; but surely, if it is going to be discussed somewhere it can with advantage be discussed here rather than in the Plenary Conference outside.

Chairman: Yes; I am not going to shut out a general discussion of it. I can tell the Committee quite frankly that His Majesty's Government have not yet come down on any definite view as to what is the best method; but I do not think there is really any harm in our talking round this Table about the advantages of one course and another; I think it must be a good thing to do so. I myself should rather like to hear from the Burmese representatives present how much minority opinion in Burma is not represented at this Table. I have received, I suppose, in common with everyone else, a pamphlet from people who call themselves the true Burmese or something of that sort, and they say they are against separation.

U Aung Thin: They are a minority.

Chairman: How much of a minority? I do not suppose you would endorse all the violent language which is contained in that pamphlet which was circulated.

Mr. de Glanville: There are a number of politicians and each politician of course, claims that he represents Burma and the other politicians do not. There are a certain number of people who correspond to what is known as the Congress Party in India. Most people in Burma want separation. If you refer to this Memorandum which has been sent in and circulated, you will find there a paragraph in which they say that Burma will never agree to be under a self-governing India. Everybody in Burma is unanimous for separation. These people who say they do not want immediate separation, say this in paragraph 23: " It is true that no one in Burma believes that the Burmese would acquiesce permanently in being governed by a self-governing India, but at this juncture Burma feels more certain that immediate separation is not desirable ". Their position is that they wish the Indian to go on fighting the battle of Independence for them. I suppose they hope that

if India succeeds in overthrowing the British Government, they will then have a better opportunity of doing so than if they were separated.

Chairman: Do you mean obtaining independence or overthrowing the British Government?

Mr. de Glanville: One follows the other. They say perfectly frankly what they want. They have boycotted the Council; they boycotted the Statutory Commission; they have taken no part in working the Reforms; and now they come in and make this claim; but they do admit that they want independence and they want separation as soon as ever India becomes self-governing.

Chairman: Then that means they will want it now, does not it?

U Ba Pe: They will agree to separation if Dominion Status is obtained.

Mr. de Glanville: I should like to have an opportunity of expressing our view on the question of this Round Table Conference as against a Commission. Those views I think are important. The Committee will probably remember what happened when the Statutory Commission was sent out to India. It was a Commission of seven Members of Parliament which was to inquire and report to Parliament. That was immediately denounced by a number of people in India as an insult to India and a determination was expressed to boycott it. In order to meet this strong expression of Indian opinion it was decided to appoint a Central Committee to sit with the Simon Commission. A Central Committee was appointed; and in the same way, to pacify feelings in the Provinces, each Province had its own Committee that sat with the Simon Commission. Now it is suggested to repeat that in the case of Burma and we fear that that will cause a great deal of feeling; the cry that it is an insult to India will be repeated in Burma in the form that it is an insult to Burma unless the Committee that is sent out is one composed jointly of Members of Parliament and Burmese representatives. If that is not done we feel—personally I feel absolutely certain—that the extremist party in Burma will boycott this new Commission and we shall be in the state that India is at the present moment. We consider that at all costs we should try to avoid that. We are none of us in favour of a Commission coming to Burma at all; it would have a very unsettling influence on the Province and on the people. The atmosphere for discussing these things is not good in the country itself. We think that by far the best way of doing things is to have a Round Table Conference here, and to invite to that Conference the author of this document and all the leaders of the present Independence Movement. My information, Sir, is that if it is put in that form they will all come. I went into this before leaving Burma with some of the representatives and I was informed by one man who is in very close touch with them that if there is a Round Table Conference here they will attend. It is an opportunity which I think should not be lost sight of. We know that the Viceroy tried to get

the Indian Congress to come here and failed, possibly because it was too late. In the case of Burma it is not too late.

Chairman: You would have them invited by the Government?

Mr. de Glanville: I would have them invited by His Majesty's Government. I would not care how strong they were or how rebellious or seditious they will be; I would invite them. If they refused to come in then, of course, we should have to frame the Constitution ourselves, but I think the opportunity ought to be given to them; I think it is for the peace of Burma that it should be given. I am very nervous as to what may happen if a Commission is sent out which is not a joint Commission; I fear there may be very grave political trouble. I think the interests of the Province are best served by the course we have suggested. We have suggested this after very careful consideration. I first thought it would be best to have merely a Parliamentary Commission but I am now perfectly certain that if a merely Parliamentary Commission, or one run on the lines of the Simon Commission, comes out, it will be boycotted by the extremists in Burma. I want them to come in; I want them to come here if possible to express their views. If they do not agree we cannot help it.

Chairman: How many will that mean?

Mr. de Glanville: I calculate that about 15 would be sufficient to represent all parties.

Chairman: That is quite a modest number.

Mr. de Glanville: Fifteen to come here from Burma. You have not an equal number of British representatives at this Conference but I think fifteen, or at the outside twenty, from Burma would cover every minority and business interest.

Mr. Foot: The Government of Burma regarded fifteen as being the smallest number to represent the various interests and they looked upon that number as being unwieldy for the purpose of forming a constitution.

Mr. de Glanville: They were then visualising something of the nature of the Simon Commission with fifteen Members of Parliament going out to Burma.

Mr. Foot: I think it was seven. Do you think a Constitution could be framed by a Round Table Conference?

Mr. de Glanville: I suggest that after the Round Table Conference has met and has come to agreed decisions if it can, or on those points on which it does not agree, the views of everybody have been taken and recorded, then His Majesty's Government should proceed to frame the new Government of Burma Act. I do not contemplate that the Conference itself should frame the Act, but I think it should be able to agree on the essential principles and then hand it over to the law officers of Government to frame the Act on those lines.

Chairman: Framing an Act is always a very technical matter, but you could lay down general principles.

Mr. Foot: The view which Mr. de Glenville now expresses is, I think, inconsistent with the views of the Burma Legislative Council, is it not?

Mr. de Glanville: It is inconsistent with the views of the Government of India, and it is to some extent inconsistent with the views of the Legislative Council, because the Legislative Council have not considered this point. This point was only taken up afterwards; but since then we have had repeated telegrams from Burma approving of the course that I now suggest. The Legislative Council passed a unanimous resolution that the Commission was to be a joint one. The Local Government is opposed to that, and I believe British opinion will be opposed to it.

Chairman: It will mean more delay—a Parliamentary Commission.

Mr. de Glanville: A Parliamentary Commission, according to the Government of Burma, was to come out as the Simon Commission did; then the Delegates should come here and hold a Round Table Conference. We skip this Commission.

Chairman: Of course, the problems are very much simpler.

Mr. de Glanville: They are much simpler. We can discuss them in a friendly way here; if we cannot come to a decision the final arbiters are the British Parliament.

Chairman: May I hear what the Burmese representatives say?

U Ba Pe: I quite agree to convening a Conference here instead of sending out a Commission. The announcement made by the British Government should also mention this decision. I do not know whether the terms of reference could be laid down for the Conference. The important point is to let the people of Burma know definitely that it will be a free Conference in which they can express their opinion freely; that is important because there is an impression in Burma as regards the Round Table Conference that we shall not be allowed to talk beyond a certain limit, and that we shall be gagged here. That impression exists in Burma, and it must be removed.

Chairman: I should have thought they ought to know better by now. Do they think the new Conference will be as much gagged as this Conference?

U Ba Pe: There is no harm in making known in advance the actual work we are doing here. You can never know what these mischief makers will go about and say in the country. Conditions in Burma and India are quite different from conditions here. The people of Burma are homogeneous and compact and any news can be broadcast all over the country in a few days; a lot of mischief can be done easily. It is important to take precautions in advance. I want to emphasise the necessity of announcing the Conference along with the announcement of the acceptance of separation in principle.

Mr. Mody: Might I suggest that, having heard the views of these gentlemen, you put a draft before us to-morrow.

Mr. Ohn Ghine: In regard to the Resolution passed by the Burma Council as to the Commission I put forward an amendment to the effect that in place of a Commission there should be a Round Table Conference for Burma here simultaneously with the Indian Round Table Conference. That amendment was agreed to by all parties in the Council, or most of them. I was not able to move that because the Member in charge of the Department concerned refused permission for the amendment as the notice had not been given in sufficient time. Had it been moved I think it would have been carried. So that even then the general consensus of opinion was in favour of a Round Table Conference here rather than a Commission.

U Aung Thin: I endorse the view expressed by Mr. Ba Pe.

Mr. Mody: May we hear Sir Charles Innes' views?

Chairman: Yes. Will you give us your views, Sir Charles?

Sir Charles Innes: If you will excuse me, this is a matter which is now being considered by His Majesty's Government and any views which I may express I think should be expressed to His Majesty's Government.

Chairman: Yes. I understand your views are on record.

Sir Charles Innes: Yes.

Mr. Foot: I suggest, Sir, that we should meet again and if this matter of the machinery of enquiry could be deferred, in the light of what has been said, we are more likely to be able to arrive at a right decision.

Chairman: I certainly do not suggest we should come to any conclusion to-night. I wanted to know what was said and I should be glad to know if any other member of the Committee has any views to express against what is being said.

Mr. Mody: Are we deciding now that we should recommend to the Government that they should make an announcement on the question of separation?

Chairman: No. We are giving representatives an opportunity of expressing their views as to the best machinery for framing the new Constitution; that is really what we are talking about. I am not suggesting we are deciding anything. You have heard what the Burmese representative have said. I will think over what they have said and I will consider by to-morrow what we can do about it and whether it would be proper that we should make any recommendation on the subject.

Mr. Foot: And you will take into consideration my Lord, will you, the possibility of whoever may be the British representatives on that Committee being able to arrive at a reasonable conclusion without local enquiry, because there are the backward districts and other areas which have to be taken into consideration. In dealing with twelve millions of people of course a multitude of problems arise and I should think the Governor, the Government of India and indeed the Legislative Council contemplated that there would

be the necessity of enquiry on the spot before the political destiny of this people was decided for a long time to come.

Chairman: But the backward areas would have to continue to be administered by the Governor.

Mr. Foot: Yes, of course that would be a part of the Constitution.

Mr. de Glanville: You must remember that the Simon Commission has already recorded a mass of evidence and no Commission which went out would get more evidence.

Mr. Foot: The Simon Commission expressly said they were not going into the framing of the Constitution.

Mr. de Glanville: But they have the evidence.

Mr. Foot: Yes, in Volumes 15 and 16.

Mr. Shiva Rao: Before we settle the machinery should not those who are against separation be given an adequate opportunity for expressing their opinion?

Chairman: I am sorry, but it is too late for that.

Mr. Shiva Rao: After all it is a well-known constitutional principle that the majority of the inhabitants of a Province have the right to decide whether they want to be separated and what particular Constitution they want.

Chairman: Does anybody suggest that the majority of the people of Burma are against separation?

Mr. Shiva Rao: I do not know. I am not in Burma.

Mr. de Glanville: The point has to be decided by the representatives of Burma.

Mr. Foot: There was no postcard poll taken of the people of Ireland. The decision was made by their representatives.

Lord Peel: What estimate have you in mind as to the section of opinion that is against separation?

Mr. Shiva Rao: I have no estimate.

Lord Peel: It was only that you thought there might be.

Mr. Shiva Rao: There is, according to this document. The Government must accept the proposal to make it a mixed Commission. Even Governments live and learn.

Chairman: I think we have had a useful discussion, and I will read over what has been said and see if I can bring up any suggestions to-morrow. I am not sure whether we can take any steps about this or not.

Mr. Shiva Rao: I should like to suggest that if separation is effected a recommendation should be made that Burma's admission to the League of Nations should be secured at the earliest possible moment. It is not a question of sentiment. I am thinking from the point of view of industrial legislation, and I think it is essential that Burma should continue to be a Member of the League of Nations as she is now through her connection with India. I think

the right of Burma to representation at all Imperial and International Conferences should also be recognised.

Mr. Mody: It is of importance to India. It is not from the point of view of Burma that we are thinking of this.

(*The sub-Committee adjourned at 4-35 p.m.*)

PROCEEDINGS OF THE THIRD MEETING OF SUB-COMMITTEE No. IV (BURMA) HELD ON 9TH DECEMBER, 1930.

Chairman: I do not know whether all the members of the Committee have got before them a draft Report which I have had prepared. I think, myself, subject to anything that is said, that we might be able to finish our labours to-day and agree to this. It really covers everything that we have discussed. At the same time I am very anxious that no one should say afterwards that the matter has been rushed in any way, and therefore I will give the fullest opportunity for any discussion that may be desired, and I will put myself entirely in the hands of the Committee. If you feel that this represents what we have discussed, and the conclusions that we have so far come to, I should like, if you do not mind, just to go through it paragraph by paragraph and see whether we can adopt this as our Report. I made it out in that form in order to save time. The first page had to do with purely formal matters, as you see. It says who was appointed and when we sat and so on.

Then we come to conclusions, and the first conclusion is on the principle of separation. Does anyone wish to raise any further point on that? We did discuss the form of words before, and I think it covers everything.

Mr. Shiva Rao: It seems to me that it is rather rushing things through to ask H.M. Government to make a public announcement that the principle of separation is accepted without saying anything at all positive about the prospects of constitutional advancement held out to Burma, because even the Committee which was appointed by the Burma Legislative Council to co-operate with the Simon Commission had an amendment, I think, that a Committee of seven non-official members should confer jointly with the Indian Statutory Commission, and the words added were " for the purpose of determining the immediate steps necessary for the attainment of full responsible government ". Also, I see from the Report that this amended resolution was carried by a majority and I also note that Mr. M. M. Rafi, who I presume is a Muslim from his name—

Mr. O. de Glanville: Yes, he is.

Mr. Shiva Rao: Yes. Mr. Rafi, one of the members of the Committee adds this to the Report:—" But if separation is demanded on the principle of self determination he will support it provided Dominion Status is granted." I also notice that in the Despatch of the Burmese Government to the Government of India on the Simon Report, at page 238 of the Despatches from Provin-

cial Governments, the Government says quite frankly: "It is quite true that Burman politicians of extreme political views who have refused to work the present constitution still believe that Burma would get full responsible government earlier if she remained part of British India, but they wish merely to postpone the day of separation." I think that the only difference between those who are against separation and those who are in favour of separation is as to the time of separation. Those who are against separation want to make sure first of all that they will get full responsible government once they are separated from India; and in the note of dissent which one of the Burmese members appended to the Report of the Burma Provincial Committee which worked in co-operation with the Simon Commission, this is what Mr. Rafi, the Muslim gentleman to whom I referred, said: "I believe that Burma is fit for self-rule. We do not know, however, whether the British Parliament will forthwith acknowledge our fitness by an immediate grant of Home Rule. If they do not, it will in my opinion be unwise and futile to press for separation. . . It will leave Burma weak and isolated, divorced from a connection which, whatever its detractors might say, has admittedly helped her in the past to rise from her political slumber and fight her political battles and to which the present Reforms in Burma are largely due".

It seems to me that it is unwise to ask the Government to make any announcement of separation until Burma knows exactly where she stands politically. I also note that the Burman Government, in the Despatch to the Government of India, on page 244, say that they "have not yet formulated their views. They are engaged on that task, now, and are preparing a memorandum for presentation to the Commission"; the reference being to the Commission proposed, that should visit Burma at the end of January, 1931. That is after the deliberations of the Round Table Conference are over, and while the Burman Government acknowledge that the pledge given in August, 1917, applies to Burma as much as to India, there is no clear enunciation of the policy to be pursued in the immediate future.

Therefore I submit that it would be much wiser to postpone any suggestion to His Majesty's Government with regard to an announcement on the principle of separation until the deliberations of the Round Table Conference have reached at any rate the concluding stages, so that we know exactly where India stands at the end of the Conference. When I speak of India I include Burma, as she is at present part of the Indian Empire, but that at the present stage it would be unwise to commit ourselves to this principle.

Chairman: You are not representing Burma are you?

Mr. Shiva Rao: No, I am not representing Burma.

Chairman: I just wanted to know, with regard to this argument which you have been using, whom you were representing, because you were arguing, as I understood you, in the interests of Burma, and that Burma might be prejudiced by this.

Mr. Shiva Rao: Yes, that is my case, and I claim that there is a very large body of Burmese opinion which is identical with the view that I have put before you.

Chairman: Not represented here by the Delegates.

Mr. Shiva Rao: That is for the Delegates to say.

U Aung Thin: I deny the fact that there is any feeling against separation. Apparently there is a small section who wanted to postpone separation, with the belief that they might move along with India according to the Report. But the present situation has been worked by the political bodies who are represented here, and those bodies alone count in the country. I submit that the placing of the Constitution first and separation next is putting the cart before the horse. We want a separated Burma first, and a separated Constitution next, and unless we can get separation it would be very hard indeed to think of a separate Constitution. That will come in at its proper place, and we need not be over anxious as to that part of it. What we want now is separation and that all the considerations which were applicable to India should also apply to Burma. Along that line, I think we can go on satisfactorily.

Mr. Foot: Is not the point which has been raised by Mr. Shiva Rao this? As I understand it the point is that we have no assurance that anything will be done on the main question in relation to India, and that until that is ascertained it will be difficult for us to move in relation to Burma. But, from what I have read of the papers, the anxiety of Burma is that the new Constitution for Burma which may be necessary shall synchronise with the new Constitution for India. It is upon that that the Government of India in their Despatch, when they were speaking of the early declaration of policy, said: " The point with which we are concerned is to invite attention to the emphasis which the Government of Burma lay upon the need for expedition in order that a new Constitution for Burma may come into being at the same time as a new Constitution for British India ". That is the concern, that there should not be a hiatus. The Constitution for Burma may in the circumstances be different from the constitution which may be established for India. That is a matter for discussion later. Would not your point be met, Mr. Shiva Rao, if there could be some assurance that the two things should synchronise? If, for instance, nothing is done as a result of the Round Table Conference for India, it is quite obvious that everything else falls to the ground. I should think so, at any rate.

Lord Peel: Not necessarily.

Mr. Foot: You mean that there might be separation itself. Very well, if there is to be a new Constitution for India, then importance is attached to the point that the new Constitution for Burma should be established at the same time.

Chairman: That is vital. I should like to call the attention of Mr. Shiva Rao to what it says on the page to which he first referred, page 238, that in August of this year the Burma Legislative Coun-

cil passed without a division a motion " thanking ' the members of the Statutory Commission for having in accordance with the wishes of the people of Burma recommended the immediate separation of Burma from India.' "

Mr. Shiva Rao: But that is followed by something else.

Chairman: Wait a moment. In the next line it goes on: " And requesting ' His Majesty's Government to make an early declaration of the acceptance of their recommendation.' " That seems to be the view that was taken by the Legislative Council of Burma then, and if you remember the memorandum from the dissentients in Burma, they said that they did not want to remain under India if India had a new self-government. They said that quite definitely. I do not quite see how the separation can be effected one way or another. The Constitution which will be given to Burma will no doubt emerge. All that we say in this resolution is that it will certainly not be prejudiced by the separation, and I do not see how it can be suggested that they would get a greater measure of self-government if they were under India than if they were alone.

Mr. Shiva Rao: I do not suggest that it should remain part of India at all, but I suggest that if as a result of this Conference India gets full responsible Government, then that promise should automatically apply to Burma as well, as part of India to-day; but if we adopt this resolution now, in advance of any decisions which may be reached by the Round Table Conference, it will naturally be said that the decisions of the Round Table Conference apply only to British India, and that the constitutional position of Burma should be considered separately without in any way being prejudiced by the decisions of this Conference.

Chairman: Does not that exactly arise from the fact that you are not speaking for Burma or on behalf of Burma? Would Burma regard it as self-government to be a Province of India?

Mr. Shiva Rao: I do not suggest that Burma should be a Province within self-governing India. All I say is that it appears to me that there is a considerable body of opinion in Burma which is in favour of separation from India if at the same time it means separation from England in the sense that she will be a Dominion.

Lord Peel: I only ask this for information: Where is that body, and which is the body of which you are speaking? It is not represented on the Council in Burma at all; it is not represented by these gentlemen who come from Burma. Who are they, these people to whom you refer? Are they some Indians in Burma?

Mr. Shiva Rao: I am not speaking of Indians at all.

Lord Peel: But who are they?

Mr. Shiva Rao: I think I read out the terms of the amended resolution which was adopted by the Burma Legislative Council on the 13th December, 1928, in appointing this Provincial Committee that co-operated with the Simon Commission, that its object should

be to determine the immediate steps necessary for the attainment of full responsible government; and in the notice of dissent which was appended by two members it is made quite clear that they would have no objection to separation if that separation also gave Dominion Status to Burma; one of those gentlemen was a Muslim and one a Burman.

Mr. O. de Glanville: Mr. Shiva Rao, I think, suggests that the whole Burmese question should be shelved until the Round Table Conference has made up its mind as to India. That, I think, is the proposal. You are certainly not representing Burmese opinion in making that claim. We have it emphasised by the Local Government and by the Government of India that in order to allay public opinion in Burma there should be a very speedy declaration of separation, and that Burma is not going to suffer constitutionally by separation. Burmese opinon is anxiously waiting for that, and we are anxiously waiting for it.

Mr. H. P. Mody: Would not the question of synchronisation which is mentioned by Mr. Isaac Foot arise in this way? After all you are asking the Round Table Conference to commit itself to a declaration of separation by His Majesty's Government. If the Round Table Conference does not arrive at an agreed solution, and if the Indians at Round Table Conference regard the solution arrived at as unacceptable, how can you possibly ask them to accept one portion dealing with Burma leaving them to discard everything else. That is how, in my opinion, the question of synchronisation will arise. If the Round Table Conference refuses to accept certain solutions, it must reject them *en bloc*. It cannot be asked to accept one or the other thing and refuse the rest. That is my view of it. I have not been able to follow the discussion, because I am sorry I was again late, but that it how I would view it. Another object that would be served by a little delay would be this. It has become evident in the last few days that there is a body of Burmese opinion in Burma that does not view this idea of separation with favour. I do not for a single moment question the rights of my friends to represent Burma. Just as we do not claim that we represent the whole of India, I do not think my friends can claim that they represent the whole of Burma, and it is conceivable that there are interests in Burma who are opposed to separation, and to whom you might give a little time for considering the matter and making such representations as they would like to make. Certain representations have been circulated to everybody, and it is possible more may be circulated. I myself have reason to think that a certain amount of agitation has been caused by the fact that the Committee of the Plenary Conference adopted the question of separation as a principle, not to be challenged at least by this sub-Committee, and it is conceivable that in the next few days you may hear something more about it. I would, therefore, suggest that an explicit announcement should not be recommended by our Committee.

Chairman: All these arguments you have been using just now are arguments against the principle of separation. That I must

rule we cannot consider at this Committee. So far as this Committee is concerned the principle of separation has been accepted. If it is not to be endorsed that is a matter for the Plenary Conference and not for us. If objections are to be taken to separation, on whatever ground they may be, they must be taken in the Plenary Conference, they cannot be taken here. So far as we are concerned at this Committee the principle has been accepted. What has been referred to us is to make recommendations as to the method.

U Ba Pe: Though Mr. Shiva Rao does not represent Burmese opinion, yet I think the point raised by him is in accordance with Burmese opinion to a certain extent. In the Council of Burma three resolutions were moved last August and passed unanimously. One refers to the acceptance of the recommendation of separation by the Simon Commission, the second refers to the appointment of a Commission to draw up the Burmese Constitution and the third refers to the grant of Dominion Status after separation. The three resolutions have to be read together. So that in substance it means that once Burma is separated from India it will have the status of a Dominion. That is the clear position in Burma. No doubt there is a section of Burmese opinion opposed to immediate separation, and therefore they have sent in their memorandum to this Conference, but the reason they oppose it is because they are afraid Burma may not get Dominion Status after separation. That is the only fear they have, but they are for separation all the same. As regards synchronisation of Burma's new Constitution with India's new Constitution, unless Burma's Constitution is either equal to or on the same plane as the Constitution India gets, it is no use having the same time because Burma will not be at all satisfied. My solution would be to recommend that His Majesty's Government should announce the acceptance of separation and the status that Burma will occupy after separation.

Mr. Foot: Would the point be met if some attention were drawn in our Report to approval of the Government of India's recommendation? The Government of India, speaking of the early declaration of policy, say:—

> "The point with which we are concerned is to invite attention to the emphasis which the Government of Burma lay upon the need for expedition, in order that a new constitution for Burma may come into being at the same time as the new constitution for British India. In view of the large issues involved, we have some doubt whether this will in fact be possible; but, assuming that the general case for separation is established, we agree both with the Commission and with the local Government that an early declaration of policy is desirable to enable enquiries to be set on foot without avoidable delay, in order to effect the separation as nearly as may be simultaneously with the introduction of the new constitution in India."

Would it be possible for this Committee, in a new paragraph, or in an addition to the first paragraph, to express the opinion that

we approve the recommendation of the Government of India that as far as may be the new Constitution for Burma should come in at the same time as the new Constitution for India. Would that go some way to meet the case?

U Ba Pe: No, not unless you mentioned status at the same time.

Chairman: What the status of Burma will be you will settle at the Conference when you settle the Constitution. When you settle the Constitutoin you will say what status you choose to call it. Dominion status is a word that may mean anything. I do not know what it means. It is not suggested you will have the same constitution as Australia, for example, after separation.

U Ba Pe: But there is one thing. Burma will not get a Constitution inferior to what India is going to get.

Chairman: Well, is not that almost what we do say? What we say is—" the prospects of Constitutional advance held out to Burma as part of British India will not be prejudiced by separation."

Lord Peel: Is it not compatible with the other interpretation that it may get what Constitution it prefers, which may be rather wider than that of India?

Sir Hubert Carr: I think its prospects are the same.

Chairman : They clearly will not be worse, I think.

U Aung Thin: It may get something more.

U Ba Pe: I am for something definite.

Chairman : But the definiteness must come after you have settled the Constitution.

U Ba Pe: I only want something definite, which will mean more than nothing at all.

Chairman : This is an announcement you are asking the Prime Minister to make to the public. I think it would be wise to accept words that would be likely to be put forward and used. If you have this said in public, announced officially, surely you have what you want, have you not?

Mr. O. de Glanville: How would it be if paragraph 1 were altered to read thus:—" The prospects of constitutional advance towards responsible government held out to Burma as part of British India will not be prejudiced by separation." That would make it perfectly clear, would it not? The ultimate goal is responsible government.

U Ba Pe: What is there to prevent our saying that Burma shall get no less than India is going to get?

Sir Hubert Carr: Can you say that before you have examined the position?

U Ba Pe: Burma will get what India gets.

Sir Hubert Carr : Every part of India is not capable of taking what the whole of India receives. There are backward areas in India. I do not suggest that Burma is a backward area, but on the face of it it does not mean that Burma can carry the same status as India until the position is examined.

U Ba Pe: Burma is a major Province with some subjects transferred. They would have an advance comparable with that of any other province. So that it follows that under the new Constitution Burma will not be worse off than the present position at least. She will get something more along with the others.

Chairman: Suppose we were to accept that suggestion which was made just now, and put in these words, which show what you are aiming at, and what you are going to get, so that the second half of it should read, " and that the prospects of constitutional advance towards responsible government held out to Burma as part of British India will not be prejudiced by separation." That shows, I think, the line you are moving on, does it not?

U Ba Pe: It is not very much?

Chairman : I took the opportunity of consulting Sir Charles Innes, and he does not think that these words will cause great unrest in Burma.

U Ba Pe: Well, I beg to differ from Sir Charles Innes. I am familiar with both sections of public opinion in Burma, and I can assure you that the effect will be very bad unless something definite is put in.

Mr. Mody: Why not say " Burma's claim to responsible government," or " Burma's right to responsible government will not be prejudiced by separation "? That is something definite. You might say Burma's claim, if such a claim has been put forward by responsible opinion in Burma, or Burma's right, if the other claim has not been definitely made. That would be quite precise.

Mr. de Glanville: To say " the claim to responsible government " is not quite as stated. Every party in Burma considers that the goal is responsible government, but we are not all agreed that it should be immediate dominion status to follow separation.

Mr. Mody: Well, say " responsible government ". That is why I advisedly put the words " responsible government ".

Lord Peel: I should have thought that the present words covered everything myself.

Chairman : I do not want to force my view on the Committee in any way, but I think the Committee would be wise to accept this, with the addition, if you like, of the words " towards responsible government ". If you get that announcement made officially by the British Government I should have thought it would be enough.

Mr. Shiva Rao: It is your language, so you can interpret it better than I do, but it seems to me that it rather weakens than strengthens the language of the first draft.

Chairman: I will take out "towards responsible government" if the Committee like.

Mr. de Glanville: I do not mind at all.

Chairman: I think it is sufficiently strong. I think it means that you would be as well off as if you were a part of India. We do not know what the Government of India is going to be yet; we do not know what the Government of Burma is going to be yet.

Sir Hubert Carr: You agree, do you not, Mr. Ba Pe, that the details cannot be worked out in the present Conference now—the Round Table Conference?

U Ba Pe: I want to know the principles of the constitution.

Chairman: Well, I do not want, of course, to hurry the Committee over this, because of course it is rather important; but can we come to a conclusion on it? Would you like those words put in—"advance towards responsible government"?

U Ba Pe: Mr. Mody made a suggestion.

Mr. Mody: My suggestion was, "Burma's claim to responsible self-government will not be prejudiced by separation," or "Burma's right to responsible self-government will not be prejudiced by separation"—one or the other.

Mr. de Glanville: That is the same thing. I do not want the word "immediate," because opinion is not unanimous on it.

U Ba Pe: The immediate grant of responsible government is opposed by the Europeans only.

Mr. de Glanville: No, no, you are quite wrong.

U Ba Pe: Mr. de Glanville belongs to the Independent party. He is for full dominion status.

Chairman: But be that how it may, you do not know what India is going to get, and you certainly will not get the British Government at this stage to make an announcement in that form. If you want it made in that form you will have to wait, as was suggested, till the very end of the Conference. You must take your choice. If you want the declaration made now it will have to be in that form.

U Ba Pe: I am not pressing for immediate dominion status. I want a declaration of the British Government about Burma's constitution.

Chairman: Here is an announcement which I understand probably the Government would be prepared to make as soon as the Plenary Conference had agreed to it, and I understood that you were anxious to have a definite announcement made at an early stage.

U Ba Pe: Quite so.

Chairman: If you want the announcement to be more definite than that you would have to wait till the end of the Conference, until we knew what India was getting, would you not?

U Ba Pe: What harm would there be if we simply said that Burma will get at least the same constitutional advance as is given to India—that whatever is given to India, she will get that, if not more.

Lord Peel: I think that would make great complications, because then you have to compare it exactly with what India does get.

Chairman: Besides, it would be absolutely impossible. India, apparently, is going to have a federal system. You are not going to have that in Burma.

Mr. Shiva Rao: The structure may be different, and yet the concession of political power may be the same, the degree of responsibility may be the same. Those are two different things.

Chairman: The concession of political power may be very different. Questions of defence and questions of finance are quite different in Burma from what they are in India.

U Ba Pe: Of course, that will differ according to the circumstances of the country, but the main principles will be the same. The advance towards responsibility will be as much as the conditions of the country permit.

Chairman: I can only advise the Committee that they should accept this form of words. If they would prefer to wait, I dare say some other form of words could be devised later.

Mr. de Glanville: On behalf of my portion, we say it is dangerous to wait. We want a declaration as early as possible. We agree with the Government of Burma and the Government of India on the necessity for a very early declaration. They are all in agreement—the Statutory Commission, the Legislative Council and the Government of India.

Chairman: You see, what I was anxious to do to-day, if the Committee would agree, was to define as far as we can define it, the position of Burma. We could make the separation clear, and have an announcement as to that, have an announcement as to the lines on which the constitution would be framed, so far as this resolution covered it, and on these other points which we have considered, so that the Burmese Delegates could then go home and know that the thing would go on in the ordinary course until we had our Conference, or whatever other method we adopted for the constitution; and I thought that that would probably be convenient. But, as I say, I am in the hands of the Committee on it.

U Ba Pe: You see, as the formal resolution proposed here stands, it looks like a leap in the dark. That is all I am thinking about.

Why not put in the words suggested by Mr. Mody? That would be more satisfactory to the people of Burma.

Chairman: Would the Committee like to hear what Sir Charles Innes says about this?

Mr. Mody: Certainly, we have no objection. We would be only too glad.

Chairman: Would you say a few words, Sir Charles?

Sir Charles Innes: I think U. Ba Pe knows that the Government of Burma have done their best for what they think to be Burman opinion in this matter, and if U. Ba Pe will permit me, while I have no desire whatever to enter into any controversy, I really must put what I know the position is in Burma at the present moment. In the first place, as you, Sir, pointed out, the principle of separation is not open to this Committee, and, as I said, this Committee cannot enter into any details of the new constitution of Burma, or cannot say in what way or to what length that new constitution will go, and for this reason: that His Majesty's Government are not yet seized of the problem of Burma. They have not even had the views of the local Government, they have not had any views from the Simon Commission, they have not had any views from the Government of India; that is to say, the present position of His Majesty's Government is that they have got a perfectly open mind—in fact, a perfectly blank mind—as regards the new constitution of Burma. Now, U. Ba Pe, if I may say so, is trying to telescope into one, two things which ought to be kept distinct. What I suggest that this Committee can definitely do is to suggest that separation will not prejudice in any way the goal of constitutional advance which has been held out to Burma. That, I think, is as far as the Committee can go. I do not think that they could say at this stage that His Majesty's Government could give Dominion status, with reservations, at once, or even must give a constitution the same as that which may be given to India, not because His Majesty's Government will not do that—indeed, the Government of Burma has specifically said in their report to the Government of India that they hoped that whatever Commission of Enquiry may be appointed may find it possible to propose for Burma a system of government comparable with that proposed for India. But at this stage I do not think His Majesty's Government can be expected to go further than to say that separation will not prejudice the prospects of constitutional advance held out to Burma as part of British India, and when they have said that, it seems to me that the Burma position is amply safeguarded; separation will not mean any derogation from the hope held out, and the new constitution will remain open for discussion, and Burma will be perfectly free. U. Ba Pe will be able to bring forward his point, the Government of Burma will have their say and the British Government will make up their minds. It seems to me that what you want to do at present is merely to suggest that the goal held out is not in any way prejudiced.

by separation. That seems to me to be the essential thing, and all the other things as regards the exact form of constitution, or how far that constitution will go, must be left for future consideration, if only for the reason that His Majesty's Government cannot speak on the subject because they are not seized of it in any way, and have not the material on which to form a conclusion. I do think you could fairly ask for a statement that the constitutional prospects are not in any way prejudiced by the fact that Burma is being separated from India. That is all I wish to say.

Chairman: Now, what does the Committee feel? Would they be prepared to accept this resolution in this form?

U Ba Pe: I would rather like the other form as it is the same thing.

Chairman: No, I do not think it is the same thing. If you want this announcement made by the British Government soon, I think you will be wise—I will not put it higher than that—to adopt the resolution in this form. The British Government cannot commit itself at this moment, as Sir Charles Innes has explained, to any particular form of government.

U Ba Pe: Mr. Mody's resolution was simply——.

Mr. Mody: May I say a word. The position of even those Burmans who strongly support this demand for separation is that they expect her to have responsible government at the earliest possible date. I do not think that matter was left in the least doubt, that they would want self-government if they had separation. If they could not have that, they would rather be with British India. I do not know whether I am interpreting their feeling correctly or not, but I feel that if these gentlemen were assured that they were going to enjoy a form of responsible government immediately, they would like to separate. Therefore this declaration must have as its basis a statement that Burma's right to responsible government will not be prejudiced by separation. If it does not mean that, then it is a declaration which my friends would be very ill-advised to accept or to ask for.

Chairman: That is exactly what it says as it now stands: "the prospects of constitutional advance towards responsible government held out to Burma as part of British India will not be prejudiced by separation."

Mr. Mody: Yes, but it is a very negative and, if I may say so with great respect, a weak way of putting it. They ask for something definite.

Mr. Foot: I understand that Mr. Mody's criticism is that this is a negative statement. Would you consider, my Lord, if it would not be possible to adopt words such as those suggested by the Governor himself in his Report. It may be nothing more than addition, but he goes on to say here—I will read the words:—"It is of great importance that it should be made clear beyond all possibility of doubt or question that the separation of Burma will not

involve any departure from the statement contained in the preamble to the Government of India Act, 1919, that the objective of British policy is the progressive realisation of responsible government in British India as an integral part of the Empire. As the Commission say, that statement constitutes a pledge given by the British nation to British India. When the pledge was first announced in August, 1917, Burma was a part of British India. The pledge therefore was given to Burma as well as to India, and even if Burma is separated from India, the pledge still stands for Burma unimpaired and in all its force."

I think it is covered by the words we have got, but they have rather a negative sound which may be discouraging to our Burmese representatives. Would it be possible to add there simply that the pledges given in the Government of India Act apply to Burma as well as to India and remain unimpaired in all their force. Would that give a positive touch to it that would satisfy our Burmese friends?

Mr. Mody: But the subjects have been implemented by various declarations.

Mr. Foot: I thought that would occur to Mr. Mody.

Mr. Shiva Rao: Besides, if Mr. Foot will forgive me for pointing it out, all the difference is, as Lord Reading put it in his speech at the opening session, it is a question of pace, because dominion status is the goal for Burma as much as for British India, according to the announcement of August, 1917. The only question is whether it is now or in a distant future.

Chairman: Well, as I say, I am in the hands of the Committee on this matter. I will press them to agree to this form of words, but if you prefer not, of course, we shall have to change them; but I do not think you will be wise, really, in the interests of Burma, I think you may take this pledge as meaning what it says.

Mr. Mody: But if His Majesty's Government are not prepared to say that Burma has a right to responsible government, would the Burmans want this separation at all? That is my point.

Mr. Foot: A request was made for this declaration to be made in the terms of reference to the new body deciding the constitution. That is what the Government ought to say. "The Government of Burma could not possibly agree to separation on any other terms, and they trust that His Majesty's Government will see fit to set at rest any doubts that may still exist on the subject by the wording of the terms of reference to the Commission." That Commission has yet to be set up, of course. That is the historical and symmetrical place for it to appear.

Chairman: Yes. I do not know whether you need be more anxious for Burma than Burma is for herself, Mr. Mody.

Mr. H. P. Mody: I am here as a member of the Committee, and I do not see why I should not feel for my Burmese brothers just as much as you would feel for them.

Mr. M. M. Ohn Ghine: May I enquire whether the second part of the first resolution as it stands does not imply that whatever measure of advance may be granted to India as a result of the Round Table Conference will also be given, as a minimum anyhow, to Burma? Does it not imply that.

Chairman: It may imply that. It seems to me that it means that you will not be prejudiced by the fact that you are separated.

Mr. M. M. Ohn Ghine: Yes.

Chairman: It does seem to me to imply that you will be treated at least as well as if you were still part of India.

Mr. M. M. Ohn Ghine: If that is clear, it is all right.

Chairman: Well, is there any amendment? We had better come to grips with it now. Will the Committee be prepared to agree to it? What we have in the draft is this: "The Committee ask His Majesty's Government to make a public announcement that the principle of separation is accepted; and that the prospects of Constitutional advance held out to Burma as part of British India will not be prejudiced by separation." Is that agreed?

Mr. H. P. Mody: I will move in the terms I have suggested, namely, that the right of Burma to responsible government will not be prejudiced by separation.

Chairman: Does anyone second that, or support it?

U Aung Thin: Yes.

Mr. Shiva Rao: Will Mr. Mody be good enough to read out what he is proposing.

Mr. H. P. Mody: "That the right of Burma to responsible government will not be prejudiced by separation."

Mr. Shiva Rao: That does not mean anything, does it?

Mr. H. P. Mody: It makes it more definite.

Mr. M. M. Ohn Ghine: I support it, but I do not know that it makes much difference really because the claim of Burma for a full measure of self-government will have to be advanced when the Constitution is considered, so that I do not know that it makes any difference.

Mr. H. P. Mody: If you prefer other phraseology, I am content, by all means. It is a matter for you.

Sir Hubert Carr: The right has yet to be established.

Lord Peel: "Right" is a very grave word to use. Nobody knows what it means. Is it a legal right? Is it a moral right? Does it raise constitutional deductions or inferences? I think that this is much better.

Mr. H. P. Mody: Put in the word "claim" if you like.

Lord Peel: I think that the word "claim" again is difficult.

Sir Hubert Carr: We do not know what a "claim" is.

Lord Peel : The prospects of constitutional advance will not be prejudiced by separation. That is what it says. It seems to me to be quite definite, and it has the advantage of not in any way prejudicing the subsequent conferences.

Chairman : I do not want to take a vote upon it, but I must take the sense of the Committee. Is it the general sense of the Committee that we should pass this resolution as it is, without amendment.

Mr. M. M. Ohn Ghine : Before you put it to the vote, there is one point I should like to mention. Yesterday I raised the question of machinery for dealing with the questions that I then mentioned.

Chairman: That is a separate point. May I take it that the Committee will report in this form, with the addition of these words " towards responsible government "?

(*Agreed.*)

I will come back to your point about machinery, if you wish it, at the end.

Now may I take No. 2.? I do not suppose that there is anything more that you want to say with regard to No. 2, is there?

Mr. Shiva Rao: I was wondering whether, about the middle of No. 2, where it says " the fullest opportunity should be given to all minorities and to the Government of India," you could also add " the Central Legislature "; or is it implied in it?

Mr. O. de Glanville: I have lived in Burma, and I do not think that the representatives of Burma will want to go to Delhi, or that they will want to go as suppliants to the Legislative Assembly. They will prefer to deal with the Government of India, which will no doubt seek the advice of members of the Legislative Assembly.

Chairman: As a mere matter of procedure, when you are dealing with a different country, you can only deal with its government; you cannot deal with the constituent parts which make up its government. I am afraid that that really would not be constitutionally correct.

Is there anything else that anyone desires to raise in connection with No. 2 ?

(*There was no response.*)

No. 3 is with reference to a financial settlement, and that goes down to the middle of page 3 of the document.

Mr. Foot: Upon that, where you get at the bottom of page 2 a reference to paragraph 93 of the Despatch of the Government of India, would it not be advisable to quote that paragraph 93. It appears probable that people who have the Report of this Committee may not have before them the Despatch of the Government of India, and it therefore appears to me that if you could have as a

sort of addendum the paragraph that is referred to, it would make your Report self-contained.

Chairman: I think probably we could quote it in the appendix in small type.

Is there anything else to be said with regard to No. 3?

Lord Peel: I always believe in reasonable mutual accommodation. If you ask me if I agree with No. 3, I say that I always believe in accommodation. I thought that the thing was the spirit of reasonableness in mutual accommodation.

Chairman: I attach great importance to it myself, and I am quite sure that when they come to negotiating between the two countries, they will show it. May I pass from No. 3 with that accepted?

(*Agreed.*)

No. 4 is with reference to defence. We have nothing that we can add to that, have we? Is No. 4 agreed?

(*Agreed.*)

No. 5 relates to the administration of Central subjects, and there are a few words written in at the end: "The Government of Burma should continue to make use of certain scientific Services" and there is added "of the Government of India." That is in order to show whose Services they are because without those words it is not quite clear whose scientific Services they are that are to be made use of.

Mr. Shiva Rao: Should we limit it to scientific Services? There may be other ways in which there can be co-operation between the two Governments. Is it necessary to limit the field only to scientific Services?

Chairman: Well I do not know. What do you say about it, Sir Charles?

Sir Charles Innes: If I may explain there was a slight difference of opinion between Sir Bhupendra Nath Mitra and myself yesterday about the scientific Services. I put the suggestion in as the result of conversations with certain heads of departments at Simla. The point is that it would be impossible for Burma to have a really satisfactory Service say for Geological Surveys or the Survey of India, or Meteorological Service, because the Services are so small that the scientists would have to work in isolation, and if you have a scientist working in isolation, in a very short time he ceases to be a scientist at all. We have in India certain extraordinarily fine Services. They have probably the highest reputation of any scientific services in the whole world, namely, the Geological Survey of India, and the Survey of India; and it seems to me, and I am sure Burmese opinion would agree, that it would be very much to our advantage if we could make use of the scientific

Services, for the reason that we should find great practical difficulty in starting really good Services of that kind ourselves. I cannot think of any other Service for which the same reason would exist, although at the same time I can assure you that in the working out of the Service we shall certainly consider the point. The really outstanding thing about it is that it will pay us in Burma, if we can agree with the terms of the Government of India, to make use of the three Services—the Meteorological Department, the Geological Survey of India, and the Survey of India, and I also hope that we shall be able to make use of the Indian Lighthouse Service. I do not know whether Mr. Rao can mention any other Services. We should obviously have to make up our own Customs, and our own Post and Telegraph Department, and our Railway Services, our Civil Services, and our Police Services, and I cannot think for any Services that we can share with the Government of India other than those Services and the Lighthouse Service.

Mr. Shiva Rao: I cannot think of any, but it seemed to me to be a pity to limit it.

Chairman: This is not an Act of Parliament, Mr. Rao; it is merely our suggestions as to things which may be done, and it does not in the least way shut out the Government of Burma or anyone else from taking other things into account in considering it. This is only an indication, and you are not bound by this in any way. I think we might leave it like that.

Sir Hubert Carr: It is all that we can recommend.

Chairman: Yes, but this recommendation does not prevent the two Governments agreeing about it.

Lord Peel: Nor does it prevent other Services from being added to it.

Chairman: May I take it that No. 5 is agreed to.

(*Agreed.*)

No. 6 is: "The Committee express the hope that it may be found possible to conclude a favourable Trade Convention between India and Burma. They believe that a Trade Convention would benefit both countries, and they think it important that separation should cause a minimum disturbance of the close trade connections that exist between the two countries." Is that agreed?

(*Agreed.*)

Now did you want to raise again this question that we were discussing yesterday about the machinery.

Mr. O. de Glanville: Yes. I understood yesterday that you allowed us to discuss that, and that you would give us a ruling to-day as to whether advice on that portion comes within the terms of reference. I am bound to point out that we have advised here upon the financial method of settling things; and if that is within

our terms of reference, I should respectfully suggest that it is also within our province to recommend whether there should be a Commission or a Round Table Conference.

Chairman: I think possibly it may be strictly within your terms of reference. It is rather difficult to say. The last words are to recommend the best way of securing this end. That is the end of separation on equitable terms. Whether the machinery which sets up the new Constitution is part of the best way to secure this end I do not know. It may be said to be. The only thing is I do not think any recommendation from us would necessarily be very useful because it is a matter which the British Government, after consultation with the Government of India and the Government of Burma, must settle themselves. What Sir Charles Innes said just now about the other point is true, that the British Government have not at present got sufficient information to enable them to make up their minds definitely one way or another. I would prefer, if the Committee would agree, not to put anything into the Report about it, but I would write a minute to the Secretary of State reporting the substance of the conversations we had yesterday so that he was perfectly clear what the views of the Burmese delegates were on that point. I think probably that would be the best way to deal with it. The Secretary of State will then have everything before him on which to draw a perfectly clear impression. I think I am right in taking it that there was no division of opinion.

Mr. O. de Glanville: That is so, we were unanimous.

Chairman: I think, perhaps, it is not appropriate to go into the Report.

Mr. O. de Glanville: Then I will withdraw my suggestion.

Chairman: Is there any other matter on the Report that any delegate would wish to raise?

Mr. Foot: I certainly do not want to enter into any point that the Committee ought not to cover, but inasmuch as importance is attached to the question of synchronisation, may I make the suggestion that as far as possible, when the new Constitution is set up for India, the new Constitution for Burma should be as nearly as may be set up at the same time.

Chairman: Frankly, I do not think that is necessary, because it is fully in the mind of the Government. Everybody in India and Burma understands that it would be practically impossible unless the two new Governments could come into being at the same time. You would not have provided two equal bodies to negotiate or to do anything. I think that is in everybody's mind. Unless the facts make it impossible there will be synchronisation. I really do not think it is worth while discussing.

Lord Peel: It cannot be at once a province of India and something else at the same time.

Chairman: Exactly. You must have the two things as nearly as possibly simultaneous. That is one reason why our Burmese

friends are anxious to get on with the drawing up of the Constitution.

Mr. O. de Glanville: That is one reason we asked for this Conference, to expedite matters.

Chairman: I see in the Report you make that is one of the reasons. Is there anything else any delegate would like to raise?

Mr. Shiva Rao: I raised the question yesterday of Burma's right to representation at the Imperial Conference and at the League of Nations, a right that has been enjoyed for ten years or more as part of India. I think it is only right that Burma should continue to exercise that right if separation is effective. I was wondering if this Committee would recommend to His Majesty's Government that those two principles be recognised at the same time.

Chairman: I do not think that is a matter for this Committee, and to a certain extent it is not a matter for His Majesty's Government. The League of Nations itself elects its members, and India does not attend the Imperial Conference, I understand, as a Dominion at present, but sends representatives by invitation.

Sir B. N. Mitra: So far as I know it has the right to representation on the League of Nations according to the Treaty of Versailles.

Chairman: Mr. Thomas, who ought to know much more about these things than I do, tells me that India attends the Imperial Conference by invitation.

Sir B. N. Mitra: But the Treaty of Versailles would not affect the Imperial Conference.

Chairman: I was speaking of the Imperial Conference.

Mr. Shiva Rao: I also mentioned the League of Nations.

Chairman: I was speaking both of the Imperial Conference and the League of Nations. The League of Nations elects its members. I do not think that is really a proper thing to be considered now when you are considering the Constitution but when you have framed the Constitution. That is the time to consider it. Burma will then make application in the ordinary way. I do not think it is a matter for this Committee at all.

Lord Peel: There is a proverb: "First things First."

Chairman: Is there anything else on this Report? I do not want you to say afterwards that I have hurried you in any way.

U Ba Pe: This Report will go to the Plenary Conference, will it, or will it go to the Conference in Committee?

Lord Peel: It will go to the full Committee of the Plenary Conference.

Chairman: If you notice at the top of page 2 the effective words are these:—"The Committee sat, and after sitting it has authorised me to present this Report." I shall present this Report to the next sitting of the Committee of the whole Conference, or if there

is a sitting of the Plenary Conference before then, probably direct to the Plenary Conference. I am not quite sure that technically we can do that. But I will see that it is presented at the first sitting of the full body which takes place, whichever it is.

Lord Peel: We must have a sitting first of all of the full Committee, must we not?

Chairman: I should think we must, as we have been appointed by them. There is to be a sitting, I understand, next week, probably.

Mr. H. P. Mody: In presenting the Report on behalf of the whole Committee, what becomes of the position of those who have been under the necessity of dissenting from one or another of these recommendations? Will you send this Report round for signature, or will you just present it as the Report of the Committee?

Chairman: I was not proposing to send it round for signature. It is the Report of the Committee. Those who dissent from it and wish to carry their dissent further ought to express it when the Report is presented.

Mr. Mody: In any sense it cannot be regarded as the Report of every single member of the Committee.

Chairman: No, the general sense of the Committee. We settled quite definitely that this Conference was not going by voting. But I think I have correctly gathered the general sense of the Committee in this Report. I have tried to do so.

Sir B. N. Mitra: Could you not say that certain members dissented from certain recommendations of the Committee? Was not that the procedure settled upon when the Committee appointed sub-Committees?

Mr. O. de Glanville: May I ask if anybody has dissented?

Sir B. N. Mitra: So far as I am concerned I have not dissented.

Mr. O. de Glanville: And I think Mr. Mody withdrew his dissent?

Mr. Mody: I dissented.

Lord Peel: If Mr. Mody dissents he is entitled to say so.

Mr. O. de Glanville: He has not said so.

Mr. Mody: I have dissented from one or other of these recommendations as regards the propriety of making the announcement on the part of His Majesty's Government.

Chairman: What I proposed to say was that the Report was unanimous on some points and practically unanimous on others, and those who dissent will have the opportunity of presenting their dissent then. I do not think I can say more than that. You have the right to speak when the Report is received, but the Report must represent the majority of the Committee.

Lord Peel: I suppose any minority can record its dissent if it chooses.

Sir B. N. Mitra : I think that was indicated. I have not the proceedings, but perhaps Mr. Mody is entitled to ask in regard to the points on which he has dissented that that dissension should be indicated.

Chairman: If you would like to have your dissent recorded on the proceedings of this Committee, I think this would be a convenient opportunity for you to say, in the presence of the shorthand-writer, what are the points on which you would like to have your dissent recorded. We should then get it recorded on the proceedings of the Committee, so that there is no doubt about it.

Mr. Mody: I am prepared to do that, but I do not know whether the other members of the Committee are absolutely unanimous. There was a point raised by Mr. Rao.

Mr. Shiva Rao: My point is practically the same as yours. I raised the point before Mr. Mody came in.

Sir B. N. Mitra: If Mr. Mody will make his statement of dissension, Mr. Shiva Rao will subscribe to it.

Mr. Mody: I will write what I have to say, and send it on.

Mr. Shiva Rao: Could we submit a note by to-morrow morning. That would not delay the submission of your Report.

Chairman : You mean that you would like the note of dissent to appear on the Report itself? If you send in a note of dissent it shall be added, but I do not think that is the procedure. This is not the Report of a Commission where we can have minority Reports. I know we very often have minority Reports in India; I have read some that are longer than the original Reports.

Lord Peel: I sometimes have not been able to find the original Report because the minority Reports have been so long.

Chairman: If you send in a minute I will find out what the practice is, and if it is the practice I will have it put on the Report itself. But I do not think that is the practice. I thought you might perhaps like to say something here before the Committee adjourned. Do you wish to have anything recorded?

Raja Sher Muhammad Khan: When the Report is presented they can say in what they dissent. They do not dissent from the principle, but on some question, and they can say it then.

Chairman: I think that is the proper course. If there is nothing else, may I take it that this Report is approved in this form?

Mr. Mody: You have suggested, in answer to the suggestion of Sir B. N. Mitra, that you might state that the Report is not unanimous in all particulars.

Chairman: I will say that if you like. But I cannot make your speech for you.

U Ba Pe : Conclusion No. 1 is the only one which is dissented from and that is on procedure and not on principle.

Chairman: May I put it again? May I now present this as the Report of the Committee to the Plenary Conference? Is that agreed? If that is agreed, then I think that concludes the business of this Committee.

Earl Peel: It was understood that our views were to be provisional at the earlier stages, so that by the time we get to the Plenary Conference Mr. Mody may have changed his mind.

Chairman: That concludes our business, gentlemen. Thank you for attending.

SUB-COMMITTEE No. IV.

(Burma.)

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

On December 1st the Committee of the whole Conference set up a sub-Committee with the following terms of reference:—

> "To consider the nature of the conditions which would enable Burma to be separated from British India on equitable terms, and to recommend the best way of securing this end."

The following Delegates were selected to serve on this sub-Committee, over which I was appointed Chairman:—

- Lord Peel.
- Mr. Foot.
- Mr. Aung Thin.
- Mr. Ba Pe.
- Mr. Ohn Ghine.
- Mr. de Glanville.
- Mr. Chintamani.
- Mr. Srinivasan.
- Captain Raja Sher Muhammad Khan.
- Mr. Mody.
- Mr. Ghuznavi.
- Sir B. N. Mitra.
- Sir Hubert Carr.

Mr. Shiva Rao was subsequently selected to take the place of Mr. Chintamani.

The sub-Committee met on the 5th, 8th and 9th December, 1930, and have authorised me to present this Report. The following conclusions were reached:—

(1) The sub-Committee ask His Majesty's Government to make a public announcement that the principle of separation is accepted; and that the prospects of constitutional advance towards responsible government held out to Burma as part of British India will not be prejudiced by separation.

[Mr. Mody and Mr. Shiva Rao desire it to be recorded that they cannot endorse this recommendation without qualification.]

(2) The sub-Committee are of opinion that the legitimate interests of Indian and other minorities must be safeguarded. They are not in a position to advise as to the particular form of protection these interests require. They consider that when the details of the constitution of Burma are being discussed, the fullest opportunity should be given to all minorities and to the Government of India to represent their views and to state the nature and extent of the safeguards they consider necessary. The sub-Committee consider that adequate attention should be paid to the question of immigration of Indian Labour and that provision should be

made for the regulation of the conditions of both the work and life of the immigrants. The sub-Committee also especially stress the importance of there being no discrimination as regards Indians entering Burma.

(3) There must be a financial settlement between India and Burma.

The questions are very difficult and technical, and the sub-Committee consider that they should be dealt with in the manner recommended by the Government of India in paragraph 93* of their Despatch (Cmd. 3700).

The sub-Committee also recommend that when the case has been thoroughly explored by the experts of the two Governments, the statements prepared by these experts should be laid before the Standing Finance Committees of the Indian Legislative Assembly and the Burma Legislative Council respectively, and that representatives of these Committees should be associated with the experts in the proceedings of the Arbitral Board.

The sub-Committee also endorse the view expressed by the Government of India in paragraph 86 of their Despatch† regarding "the great desirability . . . of adjusting the relations between the two countries in a spirit of reason and mutual accommodation so as to avoid as far as possible the ill effects which might arise from so great a change in long established practice." They venture to express the hope that all negotiations between the two Governments, whether in relation to the financial adjustment or to other matters, will be approached in this spirit.

(4) The sub-Committee recognise that adequate arrangements must be made for the defence of Burma after separation, but they

---

* EXTRACT FROM PARAGRAPH 93 OF THE DESPATCH OF THE GOVERNMENT OF INDIA (Cmd. 3700).

"It is clear that the separation of the finances of the country will raise extremely difficult issues, requiring close expert analysis, in the decision of which it will be essential to hold an even balance between what may be conflicting claims. We agree with the local Government that the best method of approaching this difficult problem is to endeavour, by mutual co-operation between the Government of India and the Government of Burma, to draw up an agreed statement of the case for reference to an impartial tribunal. The subjects requiring settlement will be of a technical nature, and will include, besides the normal questions of the adjustment of revenue and expenditure, such matters as the allocation of debt charges and the adjustment of currency arrangements. No constitutional commission could deal satisfactorily with these questions, for its functions would be entirely different, as also its probable methods of enquiry. In arriving at a financial settlement the main point to be considered is the need for satisfying public opinion in both countries that each is being fairly treated. Indian public opinion would watch this aspect of burdens. We believe that a committee of the Privy Council would be the sort of tribunal most likely to satisfy Indian opinion. Their decisions could be given on evidence placed before them, assisted by expert witnesses, or possibly assessors, from India and from Burma."

† Cmd. 3700 of 1930.

consider that the precise nature of these arrangements must be decided in the light of expert military opinion.

(5) The sub-Committee note the fact that arrangements for the taking over of the administration of subjects now classed as Central in the Devolution Rules must be made by the Government of Burma. The sub-Committee recommend that it should be considered whether, subject to the consent of the Government of India and on terms to be arranged, the Government of Burma should continue to make use of certain scientific Services of the Government of India.

(6) The sub-Committee express the hope that it may be found possible to conclude a favourable Trade Convention between India and Burma. They believe that a Trade Convention would benefit both countries, and they think it important that separation should cause a minimum disturbance of the close trade connections that exist between the two countries.

(Signed) RUSSELL, *Chairman.*

St. James's Palace, London.

9th December, 1930.

MGIPC—L—VII-11—4-5-31—1,000.



Indian Round Table Conference

12th November, 1930—19th January, 1931

PROCEEDINGS OF SUB-COMMITTEES

(Volume V)

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

CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1931

Government of India Publications are obtainable from the Government of India Central Publication Branch, 3, Government Place, West, Calcutta, and from the following Agents :—

EUROPE.

OFFICE OF THE HIGH COMMISSIONER FOR INDIA,
INDIA HOUSE, ALDWYCH, LONDON, W. C. 2.

And at all Booksellers.

INDIA AND CEYLON : Provincial Book Depôts.

MADRAS :—Superintendent, Government Press, Mount Road, Madras.
BOMBAY :—Superintendent, Government Printing and Stationery, Queen's Road, Bombay.
SIND :—Library attached to the Office of the Commissioner in Sind, Karachi.
BENGAL :—Bengal Secretariat Book Depôt, Writers' Buildings, Room No. 1, Ground Floor, Calcutta.
UNITED PROVINCES OF AGRA AND OUDH :—Superintendent of Government Press, United Provinces of Agra and Oudh, Allahabad.
PUNJAB :—Superintendent, Government Printing, Punjab, Lahore.
BURMA :—Superintendent, Government Printing, Burma, Rangoon.
CENTRAL PROVINCES AND BERAR :—Superintendent, Government Printing, Central Provinces, Nagpur.
ASSAM :—Superintendent, Assam Secretariat Press, Shillong.
BIHAR AND ORISSA :—Superintendent, Government Printing, Bihar and Orissa P. O. Gulzarbagh, Patna.
NORTH-WEST FRONTIER PROVINCE :—Manager, Government Printing and Stationery, Peshawar.

Thacker Spink & Co., Calcutta and Simla.
W. Newman & Co., Ltd., Calcutta.
S. K. Lahiri & Co., Calcutta.
The Indian School Supply Depôt, 309, Bow Bazar Street, Calcutta.
Butterworth & Co. (India), Ltd., Calcutta.
M. C. Sarcar & Sons, 15, College Square, Calcutta.
Standard Literature Company, Limited, Calcutta.
Association Press, Calcutta.
Chukervertty, Chtaterjee & Co., Ltd., 13, College Square, Calcutta.
The Book Company, Calcutta.
James Murray & Co., 12, Government Place, Calcutta. (For Meteorological Publications only.)
Ray Choudhury & Co., 68-5, Asutosh Mukherji Road, Calcutta.
Scientific Publishing Co., 9, Taltolla Lane, Calcutta.
Chatterjee & Co., 3-1, Bacharam Chatterjee Lane, Calcutta.
Standard Law Book Society, 8-2, Hastings Street, Calcutta.
The Hindu Library, 3, Nandalal Mullick Lane, Calcutta.
Kamala Book Depôt, Ltd., 15, College Square, Calcutta.
*Bengal Flying Club, Dum Dum Cantt.
Kali Charan and Co., Municipal Market, Calcutta.
B. C. Basak, Esq., Proprietor, Albert Library, Dacca.
Higginbothams, Madras.
Rochouse and Sons, Madras.
G. A. Nateson & Co., Publishers, George Town, Madras.
P. Varadachary & Co., Madras.
City Book Co., Madras.
Law Publishing Co., Mylapore, Madras.
The Booklover's Resort, Taikad, Trivandrum, South India.
E. M. Gopalakrishna Kone, Pudumandapam, Madura.
Central Book Depôt, Madura.
Vijapur & Co., Vizagapatam.
Thacker & Co., Ltd., Bombay.
D. B. Taraporevala Sons & Co., Bombay.
Ram Chandra Govind & Sons, Kalbadevi Road, Bombay.
N. M. Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay.
New and Secondhand Bookshop, Kalbadevi Road, Bombay.
J. M. Pandia & Co., Bombay.
A. H. Wheeler & Co., Allahabad, Calcutta and Bombay.
Bombay Book Depot, Girgaon, Bombay.
Bennett Coleman and Co., Ltd., The Times of India Press, Bombay.
The Manager, Oriental Book Supplying Agency, 15, Shukrawar, Poona City.
Rama Krishna Bros., Opposite Vishrambag, Poona City.
S. P. Bookstall, 21, Budhwar, Poona.
Mangaldas & Sons, Booksellers and Publishers, Bhaga Talao, Surat.
The Standard Book and Stationery Co., 32-33, Arbab Road, Peshawar.
The Students Own Book Depôt, Dharwar.
Shri Shankar Karnataka Pustaka Bhandara, Malamuddi, Dharwar.
The Standard Bookstall, Karachi, Quetta, Delhi, Murree and Rawalpindi.
*Hossenbhoy Karimji and Sons, Karachi.
The English Bookstall, Karachi.
The Standard Bookstall, Quetta.
U. P. Malhotra & Co., Quetta.
J. Ray & Sons, 43 K. & L., Edwardes Road, Rawalpindi, Murree and Lahore.
The Standard Book Depôt, Lahore, Nainital, Mussoorie, Dalhousie, Ambala Cantonment and Delhi.
The North India Christian Tract and Book Society, 18, Clive Road, Allahabad.
Ram Narain Lal, Katra, Allahabad.
The Indian Army Book Depôt, Dayalbagh, Agra.
Narayan & Co., Meston Road, Cawnpur.
The Indian Army Book Depôt, Juliundur City—Daryaganj, Delhi.
Manager, Newal Kishore Press, Lucknow.
The Upper India Publishing House, Ltd., Literature Palace, Ammuddaula Park, Lucknow.
Rai Sahib M. Gulab Singh & Sons, Mufid-i-Am Press, Lahore and Allahabad.
Rama Krishna & Sons, Booksellers, Anarkali, Lahore.
Students Popular Depôt, Anarkali, Lahore.
The Standard Bookstall, Lahore.
The Proprietor, Punjab Sanskrit Book Depôt, Saidmitha Street, Lahore.
The Insurance Publicity Co., Ltd., Lahore.
The Punjab Religious Book Society, Lahore.
The Commercial Book Co., Lahore.
The University Book Agency, Kachari Road, Lahore.
Manager of the Imperial Book Depôt, 63, Chandney Chawk Street, Delhi.
J. M Jaina and Bros., Delhi.
Fono Book Agency, New Delhi and Simla.
Oxford Book and Stationery Company, Delhi, Lahore, Simla, Meerut and Calcutta.
Supdt., American Baptist Mission Press, Rangoon.
Burma Book Club, Ltd., Rangoon
S. C. Talukdar, Proprietor, Students & Co., Cooch Behar.
The Manager, The Indian Book Shop, Benares City.
Nandkishore & Bros., Chowk, Benares City.
The Srivilliputtur Co-operative Trading Union, Ltd., Srivilliputtur (S. I. R.).
Raghunath Prasad & Sons, Patna City.
The Students' Emporium, Patna.
K. L. Mathur & Bros., Guzri, Patna City.
Kamala Book Stores, Bankipore, Patna.
G. Banerjee and Bros., Ranchi.
M. C. Kotwari, Raipura Road, Baroda.
The Hyderabad Book Depôt, Chaderghat, Hyderabad (Deccan).
S. Krishnaswami & Co., Teppakulam P. O., Trichinopoly Fort.
Karnataka Publishing House, Bangalore City.
Bheema Sons, Fort, Bangalore City.
Superintendent, Bangalore Press, Lake View, Mysore Road, Bangalore City.

AGENT IN PALESTINE :—Steimatzky, Jerusalem.

* Agent for publications on aviation only.

INTRODUCTORY NOTE.

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

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

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

TABLE OF CONTENTS.

	Pages.
SUB-COMMITTEE NO. V (N.-W. F. P.)	1—101
Members	1
Terms of reference	1
1st Meeting, 18th December, 1930	1
2nd Meeting, 29th December, 1930	1—28
3rd Meeting, 30th December, 1930	29—51
4th Meeting, 1st January, 1931	52—89
Draft Report	52—54
Discussion on Draft Report	54—89
Report	90—92
Appendix I—Introductory Memorandum by Chairman	93—96
Appendix II.—Notes on the N.-W. F. P. by Dr. Shafa'at Ahmad Khan	97—101

INDIAN ROUND TABLE CONFERENCE.

SUB-COMMITTEE No. V.

(North-West Frontier Province.)

The sub-Committee was constituted as follows:—

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

with the following terms of reference:—

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

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

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

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

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

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

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

Sir A. P. Patro: Before Sir Abdul Qaiyu speaks may I make a suggestion for the approval of the sub-C nmittee? This is a very difficult and technical problem, and it equires one who has really had some experience of it to enlight n us and guide us. With the permission of the sub-Committee m y I suggest that Sir Denys Bray, who has enquired into the matte previously and who has been in charge of it as Political Secretar in the Government of India, be permitted to make a statement s that we may know where we are with regard to the North-Wes Frontier Province. It is a very important question, and I am ure we should like experts like Sir Denys Bray to enlighte us by giving us their own experience and opinion. I know t at Sir Denys Bray is not a member of the sub-Committee, bu he is an advisor and I am sure, if the sub-Committee app ove of my suggestion, that it would be very helpful if he v ould give us his views of the matter. We all know that he an enthusiast on the subject. I quite agree with Sir Abdul Qa yum in his desire, but how best to bring that about both to the advantage of the people and of the administration is a matter of our responsibility, and if the Sir Denys Bray could be permitt d to give us his views it would be very helpful. For instance, I come from the South. I have read the reports on the subject a d I have gathered some information from the Blue Books but all hat will not help me to be able to guide or help the sub-Comm tee. I am quite sure that Sir Denys Bray who has been in clo e touch with the problem will be able to help us better.

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

Sir A. P. Patro: I was diffident to ask for our views, Lord Reading, and I put forward Sir Denys Bray in t e alternative.

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

* Appendix V (page 215.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(At this point copies of the map of the N.-W. F Province in Vol. 1 of the Simon Commission Report were circulated.)

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

The present administration of the North-W est Frontier Province has not yet found another road or means of c nmunication between

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

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

Dr. Moonje: No-man's land.

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

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

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

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

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

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

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

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

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

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

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

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

Lord Reading: What would you do with the E: ecutive? How do you propose to deal with that?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman: Not quite!

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sir Abdul Qaiyum: Yes.

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

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

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

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

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

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

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

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

Sir Abdul Qaiyum: Yes.

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

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

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

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

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

Sir Samuel Hoare: It is a big force.

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

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

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

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

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

Raja Sher Muhammad Khan: The local police.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sir Abdul Qaiyum: That is the point.

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

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

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

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

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

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

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

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

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

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

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

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

Dr. Moonje: I do not quite follow that.

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

Dr. Moonje: Which back?

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

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

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

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

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

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

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

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

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

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

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

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

Sir Abdul Qaiyum: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sir Denys Bray: No insurmountable difficulties.

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

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

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

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

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

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

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

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

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

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

Sir Denys Bray: That is so, Sir.

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

Sir Denys Bray: That we accept.

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

Sir Denys Bray: Yes.

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

Sir Denys Bray: Yes.

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

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

Sir Denys Bray: Yes.

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

Sir Denys Bray: That is so.

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

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

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

Lord Russell: With a fixed subvention during that time?

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

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

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

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

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

Sir Denys Bray: Yes.

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

Sir Denys Bray: Yes.

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

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

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

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

Lord Reading: I follow what you mean, yes.

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

Lord Reading: You mean the Governor.

Sir Denys Bray: Yes.

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

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

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

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

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

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

Sir Denys Bray: Yes.

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

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

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

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

Sir Denys Bray: Yes.

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

Chairman: Yes, we were told that very definitely.

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

Sir Denys Bray: Yes.

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

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

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

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

Sir Denys Bray: On this subject of black police?

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

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

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

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

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

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

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

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

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

Sir Deiys Bray: It does, of course.

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

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

Lord Reading: That is the whole point.

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

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

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

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

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

Chairman: Is that all.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sir Bhupendra Nath Mitra: I quite agree.

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

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

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

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

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

Lord Zetland: Yes, assisted by his Ministers.

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

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

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

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

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

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

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

The Chairman: Let Sir Denys answer.

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

Sir Abdul Qaiyum: That will not injure my case.

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

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

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

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

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

Sir Abdul Qaiyum: Yes; thank you, Sir.

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

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

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

Sir Abdul Qaiyum: That is the point.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman: Yes; but you told us that yesterday!

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

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

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

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

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

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

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

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

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

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

Sir Denys Bray: I am sorry.

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

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

Chairman: Is this a question to Sir Denys Bray?

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

Sir Denys Bray: It certainly would be simplified.

Chairman: Now have you finished, Sir Samuel?

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

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

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

Chairman: That is something gained.

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

Sir M. Shafi: You mean the Ministry?

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

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

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

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

Sir Abdul Qaiyum: Only ransom we want.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

St. James's Palace, London.

December 31st, 1930.

DISCUSSION.

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

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

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

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

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

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

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

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

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

Chairman: Did you not want a Governor?

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

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

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

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

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

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

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

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

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

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

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

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

Chairman: And I claim that it is.

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

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

Lord Russell: Hospitals and schools?

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

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

Chairman: That is what I am asking for.

Sir Abdul Qaiyum: Yes.

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

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

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

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

Sir Samuel Hoare: Shall we take that one first?

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

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

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

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

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

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

Lord Reading: If you want them out.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sir Samuel Hoare: Where exactly does it come?

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

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

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

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

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

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

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

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

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

Lord Reading: It is important.

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

Chairman: Where do you want to insert those words?

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

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

Sir Samuel Hoare: Just give us your words.

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

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

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

Sir M. Shafi: Yes.

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

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

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

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

Chairman: "The classification in other subjects."

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

Sir M. Shafi: Yes.

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

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

Chairman: Is there any exception taken to this?

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

Sir M. Shafi: Yes.

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

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

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

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

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

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

Lord Reading: Yes.

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

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

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

Chairman: That these words be there inserted?

Members: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Lord Reading: I think that would do quite well.

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

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

Lord Reading: It will not take any time.

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

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

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

Chairman: Why should we?

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

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

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

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

Chairman: Then we agree to that?

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

Chairman: Yes, that is done.

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

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

Sir Abdul Qaiyum: How will it read?

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

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

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

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

Lord Reading: That is all.

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

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

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

Sir Abdul Qaiyum: Yes.

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

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

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

Sir Abdul Qaiyum: We will not waste time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Wood: That is how I understood it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sir Samuel Hoare: Yes.

Mr. Mody: That is our interpollation, the word " effective ", is it not.

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

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

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

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

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

Sir Muhammad Shafi: I am very sorry.

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

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

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

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

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

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

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

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

Chairman: Oh, of course.

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

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

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

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

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

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

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

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

Sir Muhammad Shafi: It must be elected.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Zafrullah Khan: Not an official?

Lord Reading: Not an official.

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

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

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

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

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

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

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

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

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

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

Lord Reading: Yes.

Chairman: I was just trying to clear the ground.

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

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

Chairman: Is that agreeable?

Lord Reading: I am quite satisfied with that.

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

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

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

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

Chairman: To what point do you dissent?

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

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

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

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

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

Chairman: We have not got to that yet.

Lord Reading: It is part of the whole thing.

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

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

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

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

(*Agreed.*)

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

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

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

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

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

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

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

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

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

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

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

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

Chairman: Is that right?

Lord Reading: Yes, that is quite right.

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

The Secretary: I had " shall ".

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

A Member: Yes, that is right.

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

Sir Muhammad Shafi: 7 (ii).

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

Members: No.

Chairman: Is there anything on 7 (ii)?

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

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

Chairman: Yes.

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

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

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

Raja Sher Muhammad Khan: Yes, both of them.

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

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

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

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

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

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

Sir Muhammad Shafi: Yes.

Chairman: That is the difference.

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

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

Sir A. P. Patro: I suppose he wants to make it $33\frac{1}{3}$ per cent.

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

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

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

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

Chairman: Now, Lord Reading?

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

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

Sir Muhammad Shafi: Very well, 33.

A Member: One-third.

Chairman: Does anybody object to 33, or $\frac{1}{3}$?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman: Yes, we cannot settle it here.

Sir Muhammad Shafi: That is all right.

Chairman: "(v) minority representation."

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

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

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

Sir Abdul Qaiyum: Yes.

Sir Muhammad Shafi: Yes.

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

Dr. Shafa'at Ahmad Khan: Yes.

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

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

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

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

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

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

Chairman: "(v) minority representation."

Sir Muhammad Shafi: We accept that with pleasure.

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

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

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

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

Dr. Moonje: I want to know the percentage.

Lord Reading: In the settled districts the Hindus, including Sikhs, represent only 7·9 per cent., of the total population, against a Muslim percentage of 91·6.

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

Lord Reading: Yes.

Raja Sher Muhammad Khan: That is about right.

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

Sir Abdul Qaiyum: May I say one word?

Chairman: Yes.

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

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

Sir Abdul Qaiyum: Yes.

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

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

Dr. Moonje: Let me finish.

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

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

Sir A. P. Patro: You are giving them 13. They are about 6½ per cent. and they are being given over 12 per cent.

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

Sardar Sampuran Singh: In Behar it is 3 times.

Sir Muhammad Shafi: No, that is not so.

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

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

Dr. Moonje: Yes, quite right.

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

Sir A. P. Patro: Good.

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

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

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

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

A Member: That is inevitable.

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

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

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

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

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

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

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

Chairman: We say that clearly.

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

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

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

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

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

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

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

Dr. Moonje: That is a different point.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Several Members: Leave it to the Committee.

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

Sir B. N. Mitra: No, indefinitely.

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

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

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

Chairman: Surely the Committee will take that into consideration?

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

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

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

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

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

Chairman: I am much obliged to you, gentlemen.

(*The proceedings then terminated.*)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

St. James's Palace, London.

1st January, 1931.

(Signed) ARTHUR HENDERSON,

Chairman.

APPENDIX I.

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

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

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

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

2. Area and population.—The British area of the five administered districts covers 13,400 square miles, populated by 2¼ milllions of people; the tribal tracts, including the States of Dir, Swat and Chitral, which fall within the Malakand agency, cover 25,500 square miles with a population of nearly three millions. The Muslims are throughout in an overwhelming majority. The population figures for the five administered districts are as follows:—

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

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

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

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

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

(*a*) the defence problem, and

(*b*) foreign policy.

Points in this connection are—

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

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

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

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

III. Deficit finances.—A note is appended to indicate in a readily intelligible form the financial position of the North-West Frontier Province in the Budget of 1929-30 compared with the audited accounts of 1924-25. It is estimated in the note that the " provincial " excess of expenditure over revenue amounts to Rs. 1,11 lakhs. Since the North-West Frontier Province is still a " centrally administered " area its present budget is included within the central budget.

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

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

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

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

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

(*c*) How should the Executive be composed?

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

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

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

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

The point at issue will be whether, owing to its special circumstances, the special powers to be given to the Governors in the British Indian Provinces should be increaesd in the North-West Frontier Province.

(*f*) The classification of subjects.

For reasons peculiar to the conditions of the North-West Frontier Province, and in particular repercussions on External Affairs and Defence, it is possible that the classification of provincial subjects in the Provinces generally may require some modification. Thus, to take some examples, frontier constabulary, frontier remissions and allowances, strategic roads may all require to be classed definitely as central subjects.

(*g*) The financial settlement.

The issue is of particular importance owing to the heavy deficit in provincial revenues and the consequent demand on central revenues for the balance. It may be found appropriate that assignments of revenue from the centre to the North-West Frontier Province should run for a term of years.

The Financial Position of the North-West Frontier Province.

The attached* statement, which shows the financial position of the North-West Frontier Province in the Budget of 1929-30 as compared with the audited accounts of 1924-25, might be of interest to the sub-Committee. The statement separates the heads of account which would, in the case of a Governor's Province, involve, as affecting Central subjects, a charge upon the Central Government. One correction only has to be made in order to obtain a true picture of how the Province would stand financially if it were placed in the same position as other Provinces; *viz.*, some of the expenditure under Civil Works should properly be debited to the Central head "Frontier Watch and Ward" in so far as it concerns frontier works. If this correction is made, the "provincial" excess of expenditure over revenues will be reduced, in 1929-30, to 1,11 lakhs and the "Central" excess will be raised to 1,34 lakhs. The Province as a whole remains, according to the Budget of 1929-30, a deficit Province to the extent of nearly 2½ crores of rupees.

Looking at the provincial figures alone, after making the suggested reduction under Civil Works, it will be seen that the Province would require a subvention of 1,11 lakhs to enable it to finance, *on its present scale of expenditure*, what are classed as provincial subjects in Governors' Provinces. Its outlay of these subjects has grown, during the past six years, by 34½ lakhs, while its "provincial" revenue has remained practically stationary. This anomalous financial position is due to the position of the Province as the Warden, on behalf of the whole of India, of its North-Western Frontier.

* Statement overleaf.

Figures in thousands of Rupees.

Revenue Heads, *Net.*				Expenditure Heads, *Net.*			
Head.	Accounts, 1924-25.	Budget, 1929-30.	Increase (+) or Decrease (—).	Head.	Accounts, 1924-25.	Budget, 1929-30.	Increase (+) or Decrease (—).
Land Revenue	15,52	16,57	+1,05	Irrigation	7,93	3,02	*—4,91*
Excise	5,04	4,14	*—90*	General Administration	16,33	18,16	+1,83
Stamps	11,85	11,30	*—55*	Administration of Justice	2,79	5,25	+2,46
Forest	81	60	*—21*	Jails	4,82	6,86	+2,04
Registration	72	64	*—8*	Police	26,78	29,02	+2,24
Miscellaneous	4,89	5,78	+89	Scientific Departments	4	5	+1
				Education	11,01	19,64	+8,63
				Medical	3,92	4,02	+10
				Public Health	1,72	1,07	*—65*
				Agriculture, etc.	92	1,74	+82
				Miscellaneous Departments	5	2	*—3*
				Civil Works	50,24	85,63	+35,39
				Pensions	2,70	4,68	+1,98
				Stationery and Printing	87	68	*—19*
				Miscellaneous	68	69	+1
Total "Provincial" subjects	38,83	39,03	+20		1,30,80	1,80,53	+49,73
				Excess of Expenditure over Revenue.	91,97	1,41,50	49,53
Customs	*—8*	*—13*	*—5*				
Taxes on Income	6,02	8,07	+2,05	Territorial and Political Pensions.	53	48	*—5*
Opium	72	—	*—72*	Interest	*—8,63*	*—9,84*	*—1,21*
Currency	6	2	*—4*	Ecclesiastical	96	82	*—14*
				Political	22,11	24,46	+2,35
				Frontier Watch and Ward	92,69	95,62	+2,93
					1,07,66	1,11,54	+3,88
				Excess of Expenditure over Revenue.	1,00,94	1,03,58	+2,64
Total "Central" subjects	6,72	7,96	+1,24		2,38,46	2,92,07	+53,61
Gross Total for Province	45,55	46,99	+1,44	Excess of Expenditure over Revenue.	1,92,91	2,45,08	+52,17

APPENDIX II.

SUB-COMMITTEE NO. V (NORTH-WEST FRONTIER PROVINCE).

Notes on the North-West Frontier Province.

Circulated to the Sub-Committee at the request of Dr. Shafa'at Ahmad Khan.

(1) Strictly the North-West Frontier Province consists only of the five administered districts as, however, the charge of the tribal tracts is also in the hands of the Chief Commissioner, who acts as Agent to the Governor-General, as far as these tracts are concerned, the term is loosely applied to the total area covered by the five districts and by the tribal tracts. The tribal tracts, including the States of Dir, Swat and Chitral, cover 25,000 square miles with a population of nearly three millions. The population of the five administered districts is 2,241,000. The total area of the five districts is 13,400 square miles.

(2) From the time of the British annexation of the Punjab in 1849, down to 1901, the five frontier districts remained with the Punjab, and the Punjab Government also assumed responsibility for the control of the adjoining frontier tracts. In 1901, in consequence of the decision " that the conduct of external relations with the tribes on the frontier should be more directly than hitherto under the control and supervision of the Government of India," the whole area was taken under the immediate charge of the Government of India, a separate Frontier Province was created, and the Punjab lost the five districts.

(3) There are two points which should be vividly grasped in this connection. In the first place, the Frontier Province was an equal partner in the Province of the Punjab. All the Acts, legislative, executive and judicial, which were the product of the energy and foresight of a long line of British Administrators in the Punjab were applied automatically to the Province. There was no distinction between the various parts of the Punjab Province, and the five districts benefited considerably by the ample resources, greater opportunities, and wide scope which the Province as then constituted offered to the inhabitants of the Frontier. The five settled districts which now constitute the Frontier Province supplied some of the smartest, most enterprising, and ablest officers to the Punjab Government, and the executive ability, driving power, and capacity no less for leadership than for teamwork and discipline which the Indian officials of the then Punjab Government displayed were borne in upon all who came into contact with them.

(4) In the second place, the Province was separated from the Punjab, not because its inhabitants were either illiterate, backward or unprogressive, but because military considerations necessitated it. The Government of Lord Curzon came to the conclusion that the external relations with the tribes on the frontier could be more effectively conducted by the Central Government. That the regulation of external relations, and the needs of the defence of India, were not regarded as an obstacle to the political development of the new Province, will be clear from the 5th paragraph of the Despatch of the Secretary of State for India, dated December 20th, 1900. " In the case of the settled districts," which were to be detached from the Punjab, " it is clearly undesirable that the people having already enjoyed the benefit of a highly organised administration, with careful land settlements, its laws and regulations and the various institutions of a progressive civil government, should be thrown back from the stage which they have already reached." Lord Curzon's Government made it perfectly clear that the administration which was to be organised for the new Province would not fall short of the standards which had hitherto been maintained in the Punjab.

On the contrary, it was assumed throughout, at that time, that the people of the new Province will suffer no diminution either in the political, or in the administrative reforms which the Punjab no less than other Indian Provinces might introduce. Separation from the Punjab was not intended to imply political stagnation, or constitutional inertia, and the Province was assured of a progressive administration, adapted with a view not only to the defence of the Frontier, but also to the political and economic needs and aspirations of the people of the Province. Its strategic position, instead of being a chief hindrance to its constitutional development, was regarded then, and has been rightly considered since, by the Frontier people, as the most effective, and the most potent argument for political advance. The promises made to the Frontier people were not, however, redeemd. While the Punjab and other Provinces of India forged ahead; while the benefits of the Minto-Morley reforms were conferred throghout India in 1908-09, the new Province was treated as a special, or rather a backward area, and the inhabitants deprived of all means of representation of their views and feelings. The period that followed was one of intense political activity in the Province. The white area pulsated with life and energy, and its people were in sympathy with movements, ideals and ideas which the rest of India expressed in no uncertain terms. The masses were roused; the educated classes increased in number and influence; while the discharged soldier who returned to his native village imparted a new element of energy and discipline to the national movement. While maintaining strict discipline and self-control, and preaching loyalty to the British Government, he demanded a voice in the government of his village or town, so that he might improve his lot. The people were no longer content to remain passive and passionless spectators in their own land. They demanded change in the method of Government, and they do so for eminently practical purposes. They insisted on facilities for the education of their children; they asked for cleaner and better houses, and asked for all the amenities of modern life. They were by no means content with a change in method; they went further, and insisted on change in the form of their government. They felt that mere tinkering with a few things here and there would not be sufficient. They must be masters in their own household and permitted to shape their own destiny, consistently with the peculiar military and strategic position of their Province. They compared and contrasted their position in 1912 with that occupied by the other Provinces, after the Montagu-Chelmsford Reforms, and the more they reflected, the more discontented and dissatisfied they became. In the meanwhile, though the Report of the Bray Committee was published in 1923, the Government of India took no action on it till 1927, and even *then* they deliberately shelved the point to which the Frontier people attached supreme importance, *viz.*, the introduction of reforms in the Province. Meanwhile public opinion had undergone a most remarkable change in the brief interval. All classes and communities in India gradually acknowledged the justice and equity of this demand, and the Hindu community which had originally offered some opposition to the demand, ranged itself solidly behind the champions of reform, and expressed itself in unambiguous terms in favour of this proposal. Lala Lajpat Rai wholeheartedly supported the motion in the Legislative Assembly on March 11th, 1928, which demanded the introduction of reforms in the Frontier Province on the same footing as in other Provinces of British India.

(5) The position at the present time may be briefly summarised as follows:—The question of Frontier Reforms is not a "Communal" question any longer and an everwhelming number of Frontier Hindus support this demand. The Nehru Report which considered the problem with the greatest care, came definitely and deliberately to the conclusion that the Frontier Province should be placed on the same footing as other Provinces of British India. Let me quote here a passage from the memorandum on the North-West Frontier prepared by the Government of India for the Simon Commission (Volume IV, page 253), "Hindu political opinion outside the Province has become largely, if not entirely, reconciled to a constitutional advance."

(6) It will, indeed, be correct to state that practically all organised political parties in India, whether Hindu or Muslim, support the demand in its entirety. It is admitted by all parties that the reforms to be granted to the Provinces must in no case fall short of those which the latter may enjoy. In the Province itself, the differences between the Hindus and Muslims have completely disappeared. The Hindu community is as anxious for the constitutional development of the Province as the Muslim and the fears of a microscopic minority among the Frontier non-Muslims which had often been trotted out as the greatest obstacles to advance, have given way to a feeling of trust, security, confidence and goodwill which are without a parallel in the history of the Province. There is a solidarity of national interest, a bond of common patriotism, and common pride in the glorious history of their Province, which have knit together classes, creeds and communities in the Province. The recent events in the Province have now made this demand the dominant issue in the lives of the people. The whole Province has been roused. There is not a single hamlet in the remotest village; not an adult in the five administered districts, who do not take the keenest and intensest interest in the political future of the Province. The movement has acquired a momentum, and exercises an influence on the daily lives of the people which would have been inconceivable a year ago. All the people, from the highest to the lowest, are animated by the resolve to place their province on precisely the same level as other provinces. The whole Province is in a ferment, and is watching anxiously for the fulfilment of a promise which has been made on numerous occasions, but never redeemed. In India, the problem has exercised and is exercising profound influence, and the Indian National Congress and other political organisations have been made it one of the most important planks in their programme; while on the trans-border tribes are discontent, and their intense dissatisfaction with the status of their Province, has produced very serious effects.

I have tried to describe as briefly as I can the events that have led up to the present movement. The Frontier people are a brave, virile and high-spirited race, whose extraordinary valour and unique administrative vigour are recorded in the history of India, Afghanistan and Persia. They are democratic by instinct, tradition, environment and religion. Their manly virtues, sterling qualities, and practical ability are testified to by all who have come across them. They find other Provinces enjoying the blessings of reforms, they find education, sanitation, medical relief, and co-operative credit-societies developed in the Punjab as well as other Indian Provinces with remarkable success. They could have achieved the same results, had they been given the opportunity. Yet, in their present condition, they are virtually powerless and helpless. While possessing qualities which are the surest foundation of a self-governing nation, they are deprived of the merest rudiments of self-government. They have no voice in their own land; laws are made for them, but not by them, while they serve merely as cogs in a great machine. They feel humiliated. Their pride receives a shock from the consciousness of their political impotence and insignificance. It is sometimes said that they have received no training in local bodies and that it would be dangerous to give them so much power as at the start. If they have received no training in local bodies, it is through no fault of their own. Nor have local bodies always been recognised as indispensable links in the chain of constitutional reform. The following extract from the Despatch of the Government of India is conclusive on the point. "The five districts of the North-West Frontier Province are not behind the adjoining districts of the Rawalpindi and Multan Divisions of the Punjab in point of intelligence and capacity. In these Punjab districts the method of direct election to district Boards and Municipality was still unknown when the reforms of 1919 were introduced. Nevertheless, they have participated with success in the dyarchical constitution of the Province. The people of the North-West Frontier Province may well claim that the absence of direct representation for local purposes should no more obstruct the introduction of responsible government in their Province now, than it did in the Punjab in 1919."

(7) Nor has the British Government invariably insisted on preliminary training in local self-government before granting a legislature with full powers, either to a province or to a nation. The Boers who had laid down their arms to the British Government in 1901 had not gone through the stages either of local self-government or of a Parliamentary legislature. They lived a life and followed a programme which cannot be regarded as either advanced or modern, when compared with those of the Pathans. Yet the British Government virtually handed over an extensive area to them. No one has suggested that their early deficiency in political training really stood in the way of their efficient administration. Many other examples could be given. It is not the training so much as the foundations of character which are necessary to the maintenance of that equpoise in a State which is the pre-requisite of its stability. The Pathan has all the qualities which go to the making of an administrator and a legislator. The best evidence of this is the work he has accomplished in India and elsewhere during the last seven hundred years. If the Province is given Reforms, it will greatly assist in the restoration of peace to India, and will lead to the building up of a healthy, prosperous and contented Province which be the best security against invasion. The Province acts as the doorkeeper of India. It is the sentinel which watches the foes outside and guards its teeming millions with a loyalty and energy which have won unstinted praise from everyone. If the people are contented and happy they can be of the greatest help to India. It is through them that the turbulent tribes are kept in check. It is through them that peace, law and order reign supreme. His work in the Army is so well-known that it is not necessary for me to describe it. It is a truism to state that the British Government cannot afford to have a discontented Province while the foes are knocking at the gates outside. A discontented Province on the Frontier is a source of the greatest anxiety to the Central Government. This anxiety is multiplied tenfold when and if trans-border tribes invade the Province. If to the enormous cost of punitive expeditions and the tremendous outlay of men and money which they involve, are added deep dissatisfaction among the masses of the Province, the position of the Government becomes one of extreme difficulty and delicacy. From every point of view—from the point of expediency, equity, and statesmanship—it is necessary to satisfy the desire of the people of the Frontier Province, and thus to ensure peace not only in the Province but also on the trans-border and throughout India.

(8) The demand of the Frontier people may be summed up in the phrase —placing of the North-West Frontier Province on the same footing as other Provinces. If other Provinces are granted complete provincial autonomy, the Frontier Province should also be guaranteed precisely the same status. We are as fit to participate in the new Reform as any other Province in India, and we see no reason why our Province should be treated as a "depressed" Province. We want a fair field and no favour. Unless this is done, unless we take an honourable and equal place in the units that will constitute the Indian Federation, we would rather go without any reforms. Educationally, socially and economically, we are as good as the neighbouring Province or other Provinces of India. We admit that the strategic position of the Frontier Province may render slight modification in details necessary, and a few subjects such as the Frontier Constabulary may have to be reserved for a certain period. This can be adjusted, when we discuss the classification of subjects and divide them into Federal and Provincial. The fundamental principle must, however, be kept constantly in view, *viz.*, that no subject should be classified as Central or Federal in the Frontier Province which is not classified as such in other Provinces of India, unless the strategic position of the province makes it imperative.

The new province will be justified in asking for a subvention from the Central Government for the administration of certain provincial subjects in order to meet the deficit. The details can be worked out later on by the sub-Committee.

(9) Before I conclude, I should like to draw your attention to the case of Assam. When Assam was separated from Bengal in 1911, it was given a legislature, and was assured a progressive and efficient administration. Assam though a small Province, has enjoyed a separate legislature, and progressive and efficient administration, in spite of the fact that it contains a large number of backward tribes. It participated in the Montagu-Chelmsford reforms, and is now on a footing of absolute equality with other Provinces. Separation benefited Assam greatly, and the Province is able to stand on its own feet. Compare and contrast this with the treatment meted out to the Frontier Province. This Province, instead of benefiting by separation, has lost heavily by the change. Its administration cannot be said to be as good as, or better than, that of the Punjab or other Province of India. Its education has been retarded by the policy of retrenchment pursued by the Government of India, and the Hartog Committee on Education makes a pointed reference to it in its Report:—"How relentlessly the poilcy of retrenchment was applied may be gathered from the fact that in the North-West Frontier Province alone, within two years, the expenditure from the Government Funds was reduced by nearly two lakhs, 125 primary schools were closed, one of the two posts of Circle Inspector was abolished, the junior Anglo-vernacular training school for men was closed, all the three training classes for men attached to the Government high school were abolished, the only normal school for women was given up, and grants-in-aid were generally reduced." It may be said that generally the standards of most of the "nation-building" departments of the Frontier Province fall considerably short of those attained in other Provinces. In the sphere of law and order, it is worth remarking that the Jirga system shows no sign of decline. Hence, separation, instead of being a blessing, has proved to be a Dead Sea apple.

UNIVERSITY OF NORTH BENGAL
LIBRARY
RAJARAMMOHUNPUR

MGIPC—L—VII-12—4-5-31—1,000.