

"Moreover, apart from the intrinsic benefits of increased supply of capital, the foreigner who brings his capital to India supplies India with many things of which at her present stage she stands greatly in need. It is on the whole the foreign capitalist who imports into the country the technical knowledge and the organisation which are needed to give an impetus to industrial development. It is to him that we must look largely at first for the introduction of new industries and for instruction in the economies of mass production."

We regret that our colleagues should have thought fit to depreciate the capacity of Indians in the matter of industrial enterprise. The history of such industrial development as has been possible under free trade conditions shows that Indians have freely imported technical skill from abroad pending the training of Indian apprentices, and have conclusively shown their capacity to organise and develop large scale industries. The lack of capital to which repeated references have been made is due more to the risks involved in establishing new industries under free trade principles than to actual inadequacy of capital. This was, in our opinion, clearly proved by the industrial activities which resulted from the indirect protection afforded by war conditions. The enormous amounts which the Government of India have been able to borrow in India for State purposes is another proof that adequate capital is available in India for investment in safe and sound channels ensuring a reasonable return. A policy of protection will give the necessary confidence, and we hold the view that reasonably adequate capital will be available under such a policy. In support of this view we may quote from the evidence of Mr. Shakespear of Cawnpore who stated that once confidence was created, by adopting a policy of protection, the difficulty in obtaining capital would largely disappear. It is because we desire that industrialisation should proceed very rapidly that we are prepared to accept the advent for foreign capital to accelerate the pace.

51. We will at once proceed to state the conditions which we think should be laid down in regard to foreign enterprise with reference to manufacturing industries in India :

- (1) Such companies should be incorporated and registered in India in rupee capital.
- (2) There should be a reasonable proportion of Indian Directors on the Board.
- (3) Reasonable facilities should be offered for the training of Indian apprentices.

52. As a matter of fact, there is no difference of opinion as regards the conditions mentioned. The Government of India have themselves laid down these conditions under a free trade policy in regard to all companies which get concessions. Our colleagues have also made recommendations on the same lines, if any concessions

such as bounties and subsidies are granted. There is in our opinion no distinction between direct concessions and the right to establish industries within the tariff wall. In the one case the Government tax the people while in the other Government permit the consumers to be exploited by means of higher prices due to protective duties. Apart from these considerations, there are in our opinion strong reasons why incorporation and registration in rupee capital should be insisted upon. When a policy of protection is adopted, it becomes essential that the Government of India should have in the interests of the consumers full information and complete control over industries established in this country. In fact, "it is reasonable that special stress should be laid on the Indian character of the companies thus formed." The rate of protection has to be determined from time to time and it appears to us essential that in the interests of the people of India Government should have all the materials necessary to protect the interests of the people. We may be permitted to point out that this condition can by no means be regarded as onerous. India has been working all these years under a policy of free trade. Every foreigner was therefore free to establish industries in India. Many foreign firms have availed themselves of this privilege and have established a large number of manufacturing industries. The proportion of companies incorporated elsewhere and working in India is comparatively very small and there can therefore be no hardship if under a policy of protection it is laid down that each company which starts manufacture in India shall be incorporated and registered in this country.

53. There is one aspect of the question to which attention must be drawn. If our colleague's recommendation is accepted it will be open to every foreigner to establish manufacturing industries in India by means of companies incorporated in their own countries and in their own currency. This danger did not exist under a policy of free trade, but it is bound to materialise when the benefit of protective duties becomes available. We may have under such circumstances companies incorporated elsewhere, say in America in dollars, in France in francs, in Italy in liras, in Germany in marks, in Japan in yens and in China in dollars, etc. It will be also possible for these companies to obtain their whole capital in their own countries and thus carry away the entire profit of manufacturing industries established behind the tariff wall. The consumer will have paid a higher price, due to protective duties, and the entire manufacturing profit will have gone out of the country. We cannot obviously understand how under such conditions "the main and ultimate end *viz.*, the enrichment of the country will be attained." (Paragraph 293). We would venture to assert that India cannot

possibly be expected to adopt a policy which is likely to lead to such a result.

54. Sir Frederick Nicholson's third condition is that the profits of Indian industries should remain in the country. We are accepting for the present the policy of foreign capital for the rapid development of industries, but the safeguards of incorporation in India and rupee capital are essentially necessary to provide for the opportunity of investment of Indian capital and the retention of industrial profits at least to that extent in this country. Companies incorporated in foreign countries and in the currency of such countries would not provide such facilities for investment. We would specially invite attention to the desirability of drawing middle class capital to industries. Unless the companies are corporated in India in rupee capital the opportunity for such investment will hardly arise. It is not reasonable to expect the people of India, specially the middle classes, to take the risk of exchange by investment in companies incorporated in foreign countries in their currency even if any such investment is possible. We believe there will be no difference of opinion on the point that Indian capital should have full scope for investment in Indian industries and that foreign capital should merely supplement it to accelerate the pace and to provide the early relief of the burden on the consumer. We do not apprehend any danger of the kind indicated in the report, *viz.*, that such a policy will lead to formation of private companies. There is in our opinion very little likelihood of individual firms providing the whole capital themselves by registering private companies. If, however, such a contingency arises it can only mean that the profit of the enterprise is expected to be so substantial that the promoters desire to keep the whole of it to themselves and carry it away to their own countries. If such a danger materialises and foreign firms resort to such expedients, we think that the Government of India should by means of legislation or otherwise take steps to put a stop to it. No foreign country should be allowed to monopolise the profits due to the policy of protection in India and at the cost of the Indian consumers.

55. The condition about a reasonable proportion of Indian Directors is the logical outcome of the policy laid down by the Government of India and supported by our colleagues. It is true that joint stock companies are placed by statute on a democratic basis and there is an element of racial consideration in the question. We may, however, point out that in actual practice the result is different and that the Government of India have themselves considered it necessary to impose such a condition.

56. Our third condition is also the same as has been laid down by the Government of India and accepted by our colleagues. We

recognise that circumstances are favouring the training of Indian apprentices and that in the interests of economic working of the industries, the managing agents are inclined to train and employ Indians in preference to more costly foreign labour. In these circumstances, our recommendation would be that the Government of India should take power by legislation to bring about the training of Indian apprentices in such cases as they may in their discretion consider necessary. This legislation should apply to all factories in India whether under Indian or foreign management. If the tendency to which a reference is made in the report develops and the Indian apprentices are being trained on economic grounds there will be no occasion to exercise the powers so obtained. We have to remember that the question applies to all foreign countries establishing manufacturing industries in India and there may be an occasion in the interests of the people of India to put into force the provisions of such legislation.

57. There is an economic aspect of the employment of foreign skilled labour which needs attention. The Tariff Board has been asked to take into consideration the cost of production in other countries and in India and to determine with other relevant factors the rate of protection which should be granted to a given industry. The cost of labour does not form an insignificant factor in the determination of the cost of production, and consequently the rate of protection. If foreign skilled labour is employed the rate of protection will be higher and the consequence will be a greater loss to the consumers. In many cases it will be necessary to employ foreign skilled labour at the outset and the consumer will have to bear the necessary loss. But it is essential that such loss should be minimised as early as possible. The scheme of training Indian apprentices to take the place of foreign skilled labour has, therefore, the double advantage of providing further avenues of employment for trained Indians and of minimising the loss to the consumer.

#### **The Tariff Board.**

58. We are unanimous in thinking that the many important functions which are required to be performed necessitate the constitution of a Tariff Board. "The Board must be one which will command the confidence of the country, and must be above suspicion of any subservience to particular interests." While agreeing with this general proposition, we think it is necessary to secure a judicial decision amongst the conflicting interests and to have the consumers represented upon it. In our view, the Board should consist of three members and the Chairman should be a trained lawyer occupying the status of a High Court Judge. A Judge of a High Court has to adjudicate on important and complicated problems of litigation and his impartiality cannot be questioned. We are unanimous in thinking that "it is essential that the fact that enquiry is taking place should be widely known, that all possible interests should have every opportunity for representing their point of view, that a formal enquiry should be



held in public and that the Government should publish the results of the enquiry promptly." It will be apparent that at an enquiry at which all possible interests have to be examined and a well-balanced decision is to be given, the most qualified person to do so would be a man who has been trained both by practice in the Courts and by experience on the Bench of a High Court. We would therefore recommend that the Chairman of the Tariff Board should be an officer possessing these qualifications.

59. As regards the two other members we must examine the principles adopted by America and Australia in constituting their respective Boards. "The members of the United States Tariff Commission appeared to be for the most part men of wide general attainments." Members other than the Chairman "appear to be for the most part men who have distinguished themselves in law or in politics." We may quote from the Act creating a Tariff Commission in the United States of America, Section 700 :

"That a Commission is hereby created and established to be known as the United States Tariff Commission (hereafter in the title referred to as the Commission) which shall be composed of six members who shall be appointed by the President BY AND WITH THE ADVICE OF THE SENATE."

We think it is desirable to adopt the same principle for selecting the two other members. They should be elected by the non-official members of the Legislative Assembly, who represent wide electorates throughout the country and may well be relied upon to choose

"men of ability, of integrity and of impartiality."

The principle recommended by us is similar to the one adopted by the United States of America. The best way of making appointments "by and with the advice" of the Legislature is to allow them to elect such members. We have recommended that the Chairman should be a trained lawyer. The two other members, if our recommendation is adopted, will be distinguished men who may be expected, while representing the interests of the consumers, to be capable of taking broad views in the larger interests of the country. It appears to us necessary that the Tariff Board should be so constituted as to give general satisfaction to the people of India and should be able to command for their decisions the general support of the country. The interests of trade, commerce and industry should also have a voice in the determination of the issues submitted to it. We do not think that such interests should find representation on the Tariff Board. The plan most suited to Indian conditions is the combination of the American and Australian models. Our recommendations would therefore be that :

60. The Board should consist of three members and two assessors :

(i) The Chairman should be a trained lawyer who has had experience for a reasonable time on one of the High Courts in India.

(ii) The other two members should be elected by the non-official members of the Indian Legislature ; and

(iii) Two assessors representing trade, commerce and industry by election by the leading Chambers and Mercantile Association in India.

The representatives of the Chambers and Mercantile Associations should serve as assessors and should only be called at the discretion of the Board when in their opinion the presence of such assessors will be helpful to the Board in the investigation of any particular question.

61. Great stress has been laid on a continuity of policy. We do not think that the adoption of our scheme for the constitution of the Board will in any way militate against it. The Chairman and the permanent staff will secure all the continuity that is necessary. While the additional advantage of the adoption of our scheme will be that it will command the confidence of all shades of public opinion,

## Conclusion.

62. We cannot understand why our colleagues have been apologetic in justifying the Commission's recommendation in favour of a policy of protection. India has attained fiscal freedom and the policy which is unanimously supported by the Indian people must be the policy which should be adopted for this country. It is a mere commonplace to say that a rich India is a tower of strength to the Empire, while an economically weak India is a source of weakness. In our opinion, India would have been of far greater help to England during the war if a policy of protection had been adopted at least a generation ago and intense industrialisation had been made possible. It was a short-sighted policy to have kept a country inhabited by one-fifth of the human race in a state of chronic poverty by making it almost entirely dependent on agriculture. Indian publicists of eminence, with the full support of Indian public opinion, have insistently demanded a different fiscal policy for a long time past. In the words of the Report, "the appointment of the Indian Fiscal Commission may be regarded as the outcome of a *long-standing and insistent demand* of the public in India for a revision of the tariff policy." If this demand had not been resisted, the economic growth and well-being of the people of India would have been secured. This would undoubtedly have been to her great advantage and would also have been beneficial to the Empire. India has now attained fiscal freedom and we earnestly trust that the Government of India, in co-operation with the Indian Legislature, will hasten to give effect to the policy of industrialisation which we recommend so that she may grow to her full economic stature within a reasonable period of time.

63. We have to make these observations in view of the statement made by our colleagues, viz. that "India for many years to come is likely to concentrate on the simpler forms of manufactured goods and these are precisely those in which the United Kingdom has the smallest interest." We earnestly trust that no such limitations will be placed in the path of India's industrial development. We have already pointed out that we disagree with our colleagues regarding their proposals to hedge in the policy of protection. We hope this has not been done with the object of keeping "India to concentrate her industries on the manufacture of simpler forms of goods." That would be no real response to the unanimous view of the Indian people; on the other hand, it would cause great disappointment in the country. We may point out that although the consensus of the Indian view, as expressed by the witnesses who appeared before us, was against the introduction of foreign capital for industrial development in India, we have agreed to recom-

mend it on the terms mentioned, for the reasons advanced in the Report, *viz.*,

"If, therefore, in addition to her own capital she is able to attract capital from abroad, her development will be accelerated \* \* \* Protection entails a sacrifice on the part of the consumer. Our object should be to make that sacrifice as short as possible. The sacrifice is complete when the new industries have fully developed. Therefore it is of the first importance that the development of new industries should proceed as rapidly as possible. The more capital is employed in the development of industries, the more rapid will that development be and therefore the shorter will be the period of the burden on the consumers."

Indian opinion is unanimous and insistent on the subject and desires an intense effort at industrialization. The Indian people expect by means of protection and whole-hearted co-operation of the State to reach a commanding position in the industrial world within a reasonably short period of time. They will not be satisfied by a policy which is likely to make them concentrate their efforts for many years to come on the manufacture of simpler forms of goods. A policy which is likely to lead to this result will not appeal to the people of India and the Commission would have been constituted to little purpose, if the result of its labour is not likely to be more fruitful.

64. The economic problem of India must at least now be examined in a spirit of broad-minded statesmanship. India inhabited by a fifth of the human race can be of tremendous value, economic and political, both to herself and to the Empire, if development proceeds on lines best suited to her own conditions. If in the process of her attaining her full stature, there is any risk to the immediate interests of the British manufacturers, that risk must be faced. We think that the risk is remote, not because India is likely to concentrate "on the simpler form of manufacture" but because by an intense effort at industrialization, she will grow rapidly prosperous and her requirements of manufactured goods will largely increase. The growing prosperity which will result from the rapid development of industries will create increased demand for manufactured articles, both for those which she can manufacture herself and those which she must import, and the trade relations between the two countries will be put on a sound economic basis, mutually beneficial to both.

IBRAHIM RAHIMTULLA.  
T. V. SESHAGIRI AYYAR.  
G. D. BIRLA.  
JAMNADAS DWARKADAS.  
NAROTTAM MORARJEE.

5th September, 1922.

## Appendix (A) to the Minute of Dissent.

Professor Hamilton points out that before the coming of the Portuguese into India, three well recognised routes, two by sea and one by land were mapped out by Indian traders for carrying on their export trade. The first was by sea to the Arabian coast at Aden, and thence to Cairo and Alexandria; the second was by sea to the Persian Gulf and thence by land to Alleppo and on to the Levantine ports; the third lay overland by Kandahar to the cities of Persia and Turkey. A flourishing trade was carried on through the agency of the Indian mercantile marine with Greece, Rome and Venice in the earlier periods and with Holland and England later on.

Mr. Taylor in his History of India has this striking passage :

"The arrival in the port of London of Indian produce in Indian built ships created a sensation among the monopolists which could not be exceeded if a hostile fleet had appeared on the Thames. The ship-builders of the port of London took the lead in raising the cry of alarm. They declared that their business was in danger and that the families of all the ship-wrights in England were certain to be reduced to starvation."

Professor Jadunath Sircar enumerates a long list of manufactured articles for which India was famous. The Mogul Emperors encouraged this production by the grant of subsidies, etc. Dacca muslin is particularly referred to by all writers.

Lecky says : The woollen and silk manufacturers (of England) were seriously alarmed. This led to the passing of the Acts of Parliament in 1700 and 1721 absolutely prohibiting, with a very few specified exceptions, the employment of printed or dyed calicoes in England either in dress or in furniture and the use of printed or dyed goods of which cotton formed any part.

Mr. Romesh Chandra Dutt says :

"A deliberate endeavour was now made to use the political power obtained by the East India Company to discourage the manufacturers in India. In their letter to Bengal dated 17th March 1769, the Company desired that the manufacture of raw silk should be encouraged in Bengal and that the manufacture of silk fabrics should be discouraged. They also recommended that the silk winders should be forced to work in the Company's factories and prohibited from working in their own homes."

The Indian point of view was clearly stated by Wilson in these terms :

"Had India been independent she would have retaliated, would have imposed prohibitive duties upon the British goods and would thus have preserved her own productive industry from annihilation. This act of self-defence was not permitted her. She was at the mercy of the stranger. British goods were forced upon her without paying any duty and the foreign manufacturer employed the arm of political injustice to keep down and ultimately strangle the competitor with whom he could not have contended on equal terms."

## APPENDIX B.

Value (in lakhs of rupees) of Imports, Private Merchandise, according to four main classes and subdivisions thereof.

	Average of five pre- war years 1909-10 to 1913-14	Average of five war years 1914-15 to 1918-19	1919-20	1920-21	1921-22
<b>I.—FOOD, DRINK AND TOBACCO.</b>					
Sugar ... ..	13,18	14,70	22,99	18,50	27,50
Grain, pulse and flour ... ..	20	53	3,09	5	9,34
Provisions and oilman's stores ... ..	2,05	2,15	2,91	3,61	2,71
Liquors ... ..	1,72	2,04	2,91	4,21	3,37
Other food and drink ... ..	84	1,89	2,32	2,44	1,70
Spices ... ..	1,55	1,97	2,27	1,91	1,93
Tobacco ... ..	71	1,32	2,02	2,96	1,65
Fruits and vegetables ... ..	1,08	1,10	190	1,68	1,68
Tea ... ..	22	47	54	40	56
Fish (excluding canned fish) ... ..	31	20	15	21	19
Total Class I. ... ..	21,85	26,39	41,13	35,97	50,63

## APPENDIX B.—(Contd.)

928

	Average of five pre- war years 1909-10 to 1913-14.	Average of five war years 1914-15 to 1918-19	1919-20	1920-21	1921-22
II.—RAW MATERIALS AND PRODUCE AND ARTICLES MAINLY UNMANUFACTURED.					
Oils ... ..	3,95	4,24	9,44	8,76	7,56
Silk ... ..	1,17	1,10	1,77	1,63	1,32
Seeds ... ..	8	58	1,26	52	17
Wood and timber ... ..	71	85	1,25	1,08	86
Gums, resins and lac ... ..	26	23	72	48	41
Cotton ... ..	1,02	44	68	1,69	3,45
Tallow, stearine, and wax ... ..	17	18	24	49	21
Hides and skins, raw ... ..	14	16	20	10	10
Coal, coke and patent fuel ... ..	81	30	13	30	5,85
Metallic ores and scrap iron or steel for remanufacture.	4	3	8	18	9
Wool ... ..	16	18	7	7	9
Textile materials other than cotton, silk and wool (raw).	6	17	6	13	12
Miscellaneous ... ..	1,47	1,05	1,47	1,68	1,79
Total Class II. ... ..	10,03	9,52	17,37	17,11	22,01

APPENDIX



# APPENDIX B.—(Contd.)

59

	Average of five pre- war years 1909-10 to 1913-14	Average of five war years 1914-15 to 1918-19	1919-20	1920-21	1921-22
III.—ARTICLES WHOLLY OR MAINLY MANUFACTURED.					
Yarns and textile fabrics—					
Cotton ... ..	52,18	52,48	59,08	1,02,12	56,93
Silk ... ..	2,77	2,82	5,92	5,59	2,99
Wool ... ..	3,08	1,82	1,60	5,53	1,23
Haberdashery and Millinery	1,37	1,02	97	3,02	63
Others ... ..	50	85	1,52	2,06	65
Metals—iron and steel, and manufactures thereof	11,16	9,59	16,29	31,24	21,16
Machinery of all kinds, including belting for machinery	5,80	5,77	9,58	24,09	35,49
Cutlery, hardware, implements (except machine tools), and instruments	5,02	4,87	7,15	16,16	11,94
Metals, other than iron and steel and manufactures thereof	4,59	2,78	6,40	9,35	5,05
Railway plant and rolling-stock	6,11	1,42	4,59	14,13	18,91
Carriages and carts, including cycles and motor cars	1,56	3,48	4,54	14,08	3,54

APPENDIX

929

## APPENDIX B.—(Contd.)

930

FISCAL COMM. REPORT

	Average of five pre- war years 1909-10 to 1913-14	Average of five war years 1914-15 to 1918-19	1919-20	1920-21	1921-22
Chemicals, drugs and medicines ...	2,13	3,43	3,74	5,16	3,75
Dyes and colours ...	2,07	2,09	3,23	5,72	4,49
Paper, pasteboard and stationery ...	1,85	2,67	3,13	9,12	3,25
Glassware and earthenware ...	2,16	1,76	2,74	4,28	3,00
Apparel ...	2,03	1,85	1,97	4,32	1,28
Hides and skins, tanned or dressed, and leather	45	36	54	1,29	66
Furniture, cabinetware and manufactures of wood	30	32	46	96	54
Arms, ammunition and military stores ...	34	33	37	64	70
Miscellaneous ...	6,34	8,87	11,54	16,12	13,29
Total Class III	1,11,80	1,08,56	1,45,35	2,74,98	1,89,47
IV—MISCELLANEOUS AND UNCLASSI- FIED.	2,16	3,33	4,12	7,55	4,32
Grand Total ...	1,45,85	1,47,80	2,07,97	3,35,60	2,66,43

# APPENDIX C.

Value (in lakhs of rupees) of Exports, Private Merchandise, according to four main classes and sub-divisions thereof.

			Average of five pre-war years 1909-10 to 1913-14.	Average of five war years 1914-15 to 1918-19.	1919-20.	1920-21.	1921-22.
1.—FOOD, DRINK, AND TOBACCO.							
Grain, pulse and flour	...	...	45,82	37,42	15,15	25,65	29,99
Tea	...	...	13,07	7,55	20,56	12,15	18,22
Spices	...	...	86	1,03	1,57	83	1,01
Tobacco	...	...	37	56	93	75	71
Provisions and oilman's stores	...	...	46	60	62	74	71
Fruits and vegetables	...	...	47	57	63	60	63
Sugar	...	...	16	22	54	95	25
Fish (excluding canned fish)	...	...	39	43	51	56	60
Liquors	...	...	1	...	...	...	...
Other food and drink (coffee and salt)	...	...	1,38	1,19	1,73	1,43	1,39
Total Class I	...	...	62,97	59,57	42,23	43,67	53,51

## APPENDIX C.—(Contd.)

932

	Average of five pre-war years 1909-10 to 1913-14.	Average of five war years 1914-15 to 1918-19.	1919-20.	1920-21.	1921-22.
II.—RAW MATERIALS AND PRODUCE AND ARTICLES MAINLY UNMANUFACTURED.					
Cotton ... ..	33,28	33,63	58,65	41,63	53,97
Jute ... ..	22,20	12,80	24,70	16,36	14,05
Seeds ... ..	24,37	12,17	26,27	16,83	17,41
Hides and skins, raw ... ..	10,32	9,88	23,41	5,25	5,98
Wool ... ..	2,68	3,90	4,01	2,26	2,54
Oils ... ..	92	1,87	3,22	1,78	1,02
Gums, resins, and lac ... ..	2,29	2,66	7,42	7,68	7,94
Metallic ores and scrap iron or steel for re-manufacture.	1,15	1,91	1,50	2,47	1,70
Hemp ... ..	78	1,18	1,89	86	39
Textile materials, other than cotton, jute, wool, and hemp.	43	45	1,40	90	82
Wood and timber ... ..	98	69	1,42	1,24	59
Coal, coke and patent fuel ... ..	76	48	83	1,50	16
Tallow, stearine, and wax ... ..	9	8	9	11	9
Miscellaneous ... ..	2,28	3,25	5,01	4,56	3,11
Total Class II ... ..	1,02,53	84,96	1,59,83	1,03,43	1,09,73

FISCAL COMM. REPORT

# APPENDIX C—(contd).

	Average of five pre-war years 1909-10 to 1913-14.	Average of five war years 1914-15 to 1918-19.	1919-20.	1920-21.	1921-22.
III.—ARTICLES WHOLLY OR MAINLY MANUFACTURED.					
Yarns and textile fabric—					
Jute ... ..	20,25	40,19	50,02	52,99	30,00
Cotton ... ..	11,41	11,73	27,41	18,27	15,65
Wool ... ..	26	21	67	84	71
Silk ... ..	7	6	6	5	3
Others ... ..	1	2	3	2	5
Hides and skins, tanned or dressed, and leather	4,30	7,19	12,71	3,30	4,03
Chemicals, drugs and medicines ...	10,53	3,37	3,04	3,79	2,86
Dyes and colours ... ..	1,18	2,42	2,66	1,11	1,33
Metals other than iron and steel and manufactures thereof.	22	47	58	1,19	1,28
Metals, iron and steel and manufactures thereof.	32	34	47	59	56
Apparel ... ..	18	12	27	30	31

## APPENDIX C—(contd).

934

	Average of five pre-war years 1909-10 to 1913-14.	Average of five war years 1914-15 to 1918-19	1919-20.	1920-21.	1921-1922.
Cutlery, hardware, implements (except machine tools) and instruments.	6	4	8	10	9
Paper, pasteboard, and stationery ...	1	2	4	2	3
Furniture, cabinetware, and manufactures of woods.	7	4	12	9	12
Railway plant and rolling-stock ...	1	2	3	11	7
Glassware and earthenware ...	2	1	3	2	2
Machinery of all kinds, including belting for machinery.	...	1	2	...	...
Carriages and carts, including cycles and motor cars.	...	...	1	...	...
Miscellaneous ... ..	3,00	3,12	5,01	4,10	4,50
Total Class III ...	51,88	69,40	1,03,25	86,91	61,67
IV.—MISCELLANEOUS AND UNCLASSIFIED	2,12	2,04	3,71	4,29	4,64
Total ...	2,19,50	2,15,97	3,09,02	2,38,30	2,29,55

FISCAL COMM. REPORT



## APPENDIX D.

Percentage share of the principal countries in the total trade in merchandise only

Countries	AVERAGE OF FIVE PRE-WAR YEARS 1909-10 TO 1913-14			AVERAGE OF FIVE WAR YEARS 1914-15 TO 1918-19			1919-20			1920-21			1921-22		
	Imports	Exports, in- cluding re- exports	Total	Imports	Exports in- cluding re- exports	Total	Imports	Exports in- cluding re- exports	Total	Imports	Exports in- cluding re- exports	Total	Imports	Exports in- cluding re- exports	Total
<b>BRITISH EMPIRE</b>															
United Kingdom	62.8	25.1	40.0	56.5	31.1	41.2	50.5	29.6	37.7	61.0	21.9	44.1	56.7	19.7	39.0
Ceylon	.5	3.7	2.4	1.1	4.3	3.0	1.2	3.4	2.6	.6	4.6	2.3	.5	5.1	2.7
Straits Settlements	2.1	3.4	2.9	3.0	2.7	2.8	2.9	2.3	2.5	1.4	3.6	2.3	1.5	3.1	2.3
Australia ... ..	.7	1.4	1.1	.8	2.2	1.7	1.6	1.0	1.2	.4	2.4	1.3	3.6	1.7	2.6
Hongkong ... ..	.7	4.1	2.7	.9	2.0	1.6	1.3	2.8	2.2	.7	2.8	1.7	.6	2.7	1.6
Mauritius & Dependencies	1.8	.6	1.1	1.1	.6	.8	.6	.4	.5	.3	.7	.5	.8	.9	.8
Total (including other British possessions)	69.8	41.9	52.9	65.4	51.7	57.1	61.0	44.0	51.0	66.0	43.0	56.0	66.6	37.3	52.6
<b>FOREIGN COUNTRIES</b>															
Japan	2.5	7.5	5.5	10.4	11.2	10.9	9.2	14.3	12.3	7.9	9.5	8.6	5.1	15.8	10.2
U. S. of America	3.1	7.5	5.8	7.0	11.9	9.9	12.1	14.9	13.8	10.5	14.8	12.4	8.1	10.5	9.1
Java	6.4	1.3	3.3	7.8	1.1	3.8	9.4	.6	4.0	4.6	1.2	3.2	8.9	1.7	5.5
France	1.5	6.6	4.6	1.3	4.5	3.2	.8	4.8	3.3	1.1	3.1	2.0	.8	4.0	2.4
Italy	1.0	3.2	2.3	1.2	3.9	2.8	.6	2.4	1.7	1.2	2.6	1.8	.8	2.4	1.5
China (exclusive of Hong- kong and Macao)	1.1	3.9	2.8	1.3	2.0	1.7	1.8	3.4	2.8	.9	3.3	1.9	1.0	4.5	2.7
Persia	.4	.5	.5	.6	1.6	1.2	1.6	1.6	1.4	.4	1.5	.9	.6	1.4	1.0
Russia	.1	.9	.6	.1	1.2	.8	.1	...	...	.1	...	.04	.01	...	.01
Holland	.9	1.5	1.3	.6	.2	.3	.5	.5	.5	.9	.5	.7	.9	.9	.9
Belgium	1.9	5.3	3.9	.3	.5	.4	.3	3.1	2.0	1.6	5.0	3.1	2.0	3.3	2.6
Germany	6.4	10.0	8.6	.7	.9	.8	...	.4	.3	1.4	3.4	2.3	2.7	6.6	4.6
Austria-Hungary	2.2	3.5	2.9	2.	.4	.3	.1	.1	.1	.2	.3	.3	.1	.3	.2
Total (including other foreign countries)	30.2	58.1	47.1	34.6	48.3	42.9	39.0	56.0	49.0	34.0	57.0	44.0	33.4	62.7	47.4

## APPENDIX E.

Table showing the effect of Tariff Valuations as compared with "ad valorem" Duties if the valuation is taken as the average of the prices of the three preceding years.

Prices are considered to vary during the three years from Re. 1 to Rs. 3 and the duty is taken as 20 per cent for ease of calculation.

If the prices for the three years are respectively,	Then the average will be	IF THE PRESENT PRICE IS 1.		IF THE PRESENT PRICE IS 2.		IF THE PRESENT PRICE IS 3.	
		Cost PLUS 'AD VALOREM' duty	Cost PLUS tariff valuation duty	Cost PLUS AD VALOREM duty	Cost PLUS tariff valuation duty	Cost PLUS AD VALOREM duty	Cost PLUS tariff valuation duty
1, 1, 1	1	1.2	1.2	2.4	2.2	3.6	3.2
1, 1, 2 or 1, 2, 1 or 2, 1, 1.	1.33	1.2	1.266	2.4	2.266	3.6	3.266
1, 2, 2 or 2, 1, 2 or 2, 2, 1 or 1, 3, 1 or 1, 1, 3 or 3, 1, 1.	1.66	1.2	1.334	2.4	2.334	3.6	3.334
1, 2, 3 or 1, 3, 2, or 2, 1, 3 or 2, 2, 2 or 2, 3, 1 or 3, 2, 1 or 3, 1, 2.	2	1.2	1.4	2.4	2.4	3.6	3.4
1, 3, 3 or 2, 3, 2, or 2, 2, 3 or 3, 2, 2 or 3, 3, 1 or 3, 1, 3.	2.33	1.2	1.466	2.4	2.466	3.6	3.466
3, 3, 2 or 3, 2, 3, or 2, 3, 3.	2.666	1.2	1.534	2.4	2.534	3.6	3.534
3, 3, 3	3	1.2	1.6	2.4	2.6	3.6	3.6

When the present price is low, the consumer pays a higher duty and the manufacturer gets a greater protection. When the present price is higher, the consumer pays a lower percentage duty and the manufacturer gets a lower percentage protection.

# Report

## On The Burma Reforms

The report of the Burma Reforms Committee, (the Whyte Committee), the Government of India's Despatch, and the Draft Rules as approved by the Joint Committee, and the correspondence presented to Parliament including the recommendations of the Burma Govt., were published in May 1922.

### The Whyte Committee Report

The report of the Burma Reforms Committee, presided over by Sir Frederick Whyte, covers 24 pages and is generally unanimous, but contains three minutes of dissent by Maung Po Bye, Maung Myint and Mr. P. P. Ginwala. The report consists of eight chapters. The first lays down the terms of reference and the second reviews the history of the question of Reforms in Burma. It points out that the tentative scheme of the Lieutenant-Governor and the Government of India's scheme, made in the previous year, were unacceptable to the Secretary of State (Mr. Montagu) who finally decided on the application to Burma of the Government of India Act and decided to appoint for enquiry a special committee. The committee examined 101 witnesses in all. The committee next refers with regret to its boycott by the general council of the Burmese Association and the Indian Association, which adopted threats and intimidation to prevent some witnesses from appearing before the committee. The committee believes that when the result of their labours are made public, wiser counsels will prevail and that the purely negative attitude displayed by the general boycott will give way to co-operation in an endeavour to give the new constitution an auspicious inauguration.

In this connection the committee refers to the political situation in Burma when the committee's report was written. The movements of political opinion in Burma were only visible as uncertain phenomena on a distant horizon, but owing to the rapid movement of events in India the political awakening of Burma is not only a fact of profound significance but it has come about with astonishing rapidity and its influence is nowhere more clearly shown than in the successive modifications which constitutional proposals of the local Government have undergone since 1916 when Sir Harcourt Butler set up a committee to enquire into the reforms of the Legislative Council. The least important factor, more-

over, in the ripening of Burmese opinion has been the constitutional progress of India. The politically minded Burman, while loth to accept any Indian model, watched the incubation of Indian reforms with a not unpardonable jealousy, and when he saw from afar the inauguration of the new legislatures at Delhi and elsewhere in February 1921 by H.R.H. the Duke of Connaught, his national pride suffered a shock at the exclusion of his own province. The influence of Indian affairs did not, however, stop there. Certain decisions regarding the electoral and representative parts of the new Indian constitution appeared in his eyes to be influenced by considerations which hardly applied to Burma. On this point, most of our Burmese witnesses, says the report, have been at pains to lay some stress, and it will be seen from our electoral recommendations that we attach weight to their opinion. On other aspects of constitutional reform, there has been no small amount of controversy. The relative merits of Dyarchy and Home Rule have been canvassed in a manner which shows an ever spreading interest in politics, but which also suggests that even the politically minded Burman regards the former as the enemy of the latter, and has according to the committee, not fully understood either the principle of Dyarchy or its present operation in India, where developments of great significance are in progress.

The report next quotes paragraphs from the resolution of the local Government dated 17th December 1918 and 2nd June 1919 wherein the local Government emphasise that Burma undoubtedly offered a more promising field for Self-Government than did India. The passage of time, the report observes, has only increased the relevance and force of these arguments for the promise Burma gave for representative institutions.

Chapter third deals with the question of franchise. After full consideration the Committee unanimously feel that land revenue should not be the basis of franchise in Burma, because of the enormous difficulties involved. The system of assessment in Burma is widely different from that prevailing in India and any attempt to prepare an electoral roll on a minimum land revenue basis would be comparatively impermanent, because transfers of lands in Burma are very frequent. The general rural franchise recommended by the Committee is: (1) for Upper Burma—the payment of *thathamedu* which will yield an electorate practically based on household suffrage, (2) for Lower Burma—the payment of a married rate of capitation as the principal qualification. The capitation tax is virtually a poll-tax levied on individuals at the general rate of rupees 2.3 for an unmarried man for the eight towns in which urban franchise will be exercised. The adoption of the existing municipal

qualification is recommended as the basis of the electoral roll so that there should be added those who pay a minimum amount of four rupees in yearly rates and taxes (including capitation tax and land rate in lieu of capitation tax) either in a municipality or a notified area or a cantonment with the further alternative qualifications of (a) a minimum value of immoveable property either in a municipality or a notified area or a cantonment of Rs. 200, (b) a minimum amount of Rs. 5 paid as monthly rental either in a municipality or a notified area or a cantonment or (c) a minimum rental value of Rs. 5 of the residences of employees living rent free in employers' houses either in a municipality or notified area or a cantonment, both in rural and urban areas. All retired, pensioned or discharged officers, non commissioned officers or soldiers of His Majesty's regular forces should be qualified as electors. The report touching female suffrage says that there should be no disqualification on the ground of sex, because, payment of *thathom-da* being the basis of electoral qualification, any woman who is the head of a household in Upper Burma and pays *thathameda* is entitled to vote. The Committee suggests no test of literacy. Plumping in the plural member constituencies is not permitted by the Committee. The draft electoral roll for the Legislative Council is recommended to be the same as drawn up by the local Government for the rural Self Government Act. The Committee estimates the rural electorate at about fifteen lakhs but cannot give an approximate estimate of the urban electorate. The minimum age of a candidate for election should be 25 years, but no residential qualification is imposed.

#### Constituencies

Chapter fourth deals with constituencies and the constitution of the Council. The Committee says, however much in theory it was unanimous that communal electorates are undesirable, they had to give way to fact and in the face of the evidence have recommended certain special measures for minority representation. Proportional representation is considered as impossible at present, but it is opined that in any further constitutional development proportional representation will probably offer the most satisfactory manner of securing representation. The Committee have recommended communal representation for European and Anglo-Indian communities and reservation of special seats in certain plural member constituencies for Indian and Karen communities.

Touching the question of constituencies, the Committee recommend that nineteen districts be represented by two members each. In five out of them (Amherst, Bassien, Maubin, Myaungmya and Thaton) the second seat will be reserved for the Karen community. The following remaining twelve districts will be represented by one

member each :—Insein, Katha, Kyaukpyu, Kyaukse, Mandalay, Mergui, Minbu, Prome, Pyapon, Sandoway, Tavoy and Thayetmyo.

Continuing the Committee states :— "We consider that this allotment represents satisfactorily the relative interests of Upper and Lower Burma and sufficiently corresponds to the population ratio of the different districts. We propose to confine urban representation to the following 8 towns which have more than 20,000 inhabitants :—Rangoon (of which 4 are reserved for Burman candidates, three Indian candidates and one seat is left open) 8 ; Mandalay (2 reserved for Burmans and 1 for an Indian) 3 ; Moulmein (1 Burman and 1 Indian) 2 ; Bassein (1 Burman and 1 Indian) 2 ; Akyab (one Burman and one Indian) 2 ; Henzada 1 ; Prome 1 ; Tavoy 1. The nominated members of the Legislative Council will consist of 12 officials, to be chosen by the Local Government, which seems to us to be the irreducible minimum; 8 non-officials, among whom will be found representatives of the backward tracts and one representative for Indian commerce; in the first instance, 2 members of the Executive Council and the President, making the total number of members for the Legislative Council 101, not including two experts provided for in the Government of India Act. The composition of the Legislative Council will then be : elected urban members 20, rural members 50, Burma Chamber of Commerce 2, Burmese Chamber of Commerce 1, Chinese Chamber of Commerce 1, Rangoon University 1, Rangoon Trades Association 1, European 1, Anglo-Indian 1, total 78 ; nominated officials 12, non-officials 8, Executive Council 2, President 1, total—101.

#### Areas Excluded from Franchise

Dealing with the question of excluded areas, the Committee accept the proposals of the local government in their entirety, the effect of which will be that the Shan States and the areas to which the Kachin Hill Tribes Regulation, 1895, Chin Hill Regulations, 1896, and Arakan Hill District Laws Regulation, 1916, apply should be excluded. The Committee is satisfied that the difficulties of holding elections in them are almost insuperable and that their inhabitants are not politically advanced. They therefore recommend that, while these areas should not be excluded from the scope of the Government of India Act, the franchise should for the present not be extended to them.

#### Division of Functions

Turning to the division of functions the Committee accept the proposals of the local government contained in their note of October 25th 1921 regarding the political changes. They affirm that the transfer of these subjects to the provincial list should take place at



soon as necessary adjustments have been made. All these proposals would entail an enquiry into financial considerations which are inseparable from them. The Committee suggest that the local government should be entrusted with fuller powers in dealing with the question of rice control and recommend the transfer of (1) salt, (2) forests, (3) European and Anglo-Indian education, (4) regulation of betting and gambling, (5) prevention of cruelty to animals, (6) protection of wild birds and animals, (7) control of dramatic performances and cinematograph to the list of provincial subjects in addition to those already recommended by the local government. The Committee does not agree with the suggestion to exclude the Port of Rangoon from the list of major ports. The Rangoon Development Trust is mainly concerned with the management and development of the Government estates in Rangoon and should be treated as a reserved subject.

#### Representatives in Indian Legislature

Finally, the Committee recommend that the number of representatives for Burma to the Indian Legislature should remain unchanged and do not agree with Mr. Ginwala that the elected members from Burma on the Legislative Assembly should be considerably increased. Continuing the Committee states :—"For the Council of State we recommend that the existing classes of electors remain unchanged, but that the minimum qualification on the basis of land revenue payment should be Rs. 1000 and the minimum income-tax qualification Rs. 3090 instead of Rs. 3000. In the case of the Legislative Assembly we accept the arguments on which the decision to adopt the direct election of Indian members to the Legislature was based. The present indirect franchise in Burma was never regarded as more than a stop-gap and we consider that it should not be retained. In its place we propose that the following qualifications be adopted :—

(A) Payment in the previous year of land-revenue of an amount not less than Rs. 100 for Lower Burma and Rs. 50 for Upper Burma.

(B) Assessment in the previous year to income tax.

(C) The payment in Upper Burma in the previous year of *thathameda* not less than Rs.25.

(D) Being qualified as an elector for the Burma constituency of the Council of State.

"It will be seen that we have adopted as the primary basis of the franchise the payment of minimum amount in land revenue. We have already put forward strong arguments against the adoption of this basis for the wider franchise for the provincial Legislative Council. These arguments are not applicable in anything like the same degree to the present proposal and we anticipate little difficulty

in the preparation of the electoral roll on this basis for the Legislative Assembly. Moreover, if we had excluded payment of land revenue as one of the basis of franchise for the Legislative Assembly, we should have excluded from the roll a large number of residents in rural districts engaged in agriculture who on broad political grounds are entitled to the franchise. We have adopted *thathameda* in Upper Burma, because, with the exception of Mandalay and Maymyo, income-tax is not there levied and we consider it is necessary to enfranchise certain classes of house-holders, who if they had lived in other areas, would probably have been included in the income tax assessment. If these recommendations are adopted we would prescribe the same qualifications for the electorate for the Burma European constituency for which assessment to income-tax is at present the same qualification."

The following are the views of the Government of India on the Whyte Committee Report.

The Government of India sent on the 31st March 1922 a lengthy despatch to the Secretary of State expressing their views on the proposals of the Burma Reforms Committee. The Government of India disagreeing with both the Committee and the Burma Government recommend that the area which the Committee propose to exclude entirely from any constituencies, even though the areas are not backward tracts, should be included in appropriate constituencies. On the question of women's franchise the recommendation of the Committee has been accepted and the Governor is given discretion to accept or not the recommendation of the Legislative Council removing female disqualification regarding eligibility for election.

In case of cumulative votes the Government of India rejects the opinion of the Committee and accepts the view of Local Government which favours plumping in plural constituencies.

In the case of representation of the Karen community the idea of communal representation on the basis of division rather than reserved seats is favoured, but in the case of Indian representation the view of the Committee is adopted in preference to the view of the local Government. Sir William Vincent, however, dissents from the view of the majority of his colleagues and considers the method of reserved seats as unsuitable for adoption for Indians in urban constituencies as for Karen's in rural constituencies.

Regarding franchise the despatch accepts the Committee's proposals generally for the qualifications. The Government of India further considers that immigrants of agricultural and labouring classes should not be enfranchised as they have no stake in the province. The despatch discusses in detail the effects of the fran-

chise and concludes that entry on the capitation tax roll should qualify for a vote whether a man pays married rate or not. The Government of India further accept the assessment to income-tax as a qualification for vote which will mainly affect women, and they consider the payment of twenty rupees land revenue as minimum qualification under that. The despatch agrees with the Committee and the Local Government that the residential qualification is not necessary for candidature for rural constituency and accepts the Committee's proposals regarding the distribution of seats in urban and rural constituencies with certain modification with reference to European representation. The Government of India propose increasing the number suggested by the Committee from one to three regarding special constituencies and representation of special interests by nomination. The Government of India do not consider seats for backward tracts necessary. They propose representation for mining and planting industries and labouring classes. The despatch proposes additional five members of the Legislative Assembly who would be nominated by the Governor in any way he thought proper. The Government of India accept the Committee's proposal regarding electoral rules for the Assembly and Council of State. In conclusion the despatch refers to the need for prompt action in order to get the elections held next October and trusts that the Secretary of State will be able to accord sanction to Government of India's proposals at an early date.

The following are the views of the Government of Burma on the Whyte Committee Report.

The Burma Government in a letter to the Government of India dated the 21st December, 1921 expressed their disagreement with some of the Committee's recommendations. It opposes the recommendation that an elector having two or more votes should not be permitted to give more than one to any candidate. The proposal for special representation of Indian and Karen Communities by reservation of seats in general constituencies does not find favour with the Local Government who advocate communal electorates constituted on lines on which the Committee has recommended reservation of seats for the two communities. The Local Government would give Indians 7 and Karens 5 seats by communal electorate and would raise the membership of Legislative Council to 103 of whom 80 shall be elected.

On the question of division of functions, the Local Government stresses at length the advisability from an administrative point of view of the transfer of forests to the popular Minister, but for the sake of the political advantage of the moment they acquiesce in the

view of the Committee for the transfer of both forests and European and Anglo-Indian education to Ministers.

The following is a summary of the Report of the Parliamentary Standing Joint Committee on the Draft Burma Rules.

The draft Burma Electoral Rules as approved by the Joint Committee on Indian affairs have, as far as possible, been framed on the lines of those in Indian provinces. The rules provide for a Legislative Council of the Government of Burma of 103 members consisting of members of the Executive Council, *ex officio*, 79 elected members and such number of members nominated by Government as with the addition of the members of the Executive Council shall amount to 24. Of the members so nominated not more than fourteen may be officials and two shall be persons nominated to represent respectively Indian Commerce and labouring classes.

The qualification of an elector of an urban constituency as approved by the Joint Committee is that he should have (1) a place of residence in the constituency or within two miles of the boundary thereof and who (2) possesses immovable property in the constituency of the value of not less than Rs 200, or (b) has paid during and in respect of previous financial years municipal taxes or Cantonment taxes which together with any capitation tax or land rate in lieu of capitation tax paid by him in respect of previous agricultural year amount to not less than Rs. 4, or (c) is the occupier of a house or building in the constituency of which the rental value is not less than Rs. 60 per annum whether rent is paid by a house belonging to his employer on his behalf, or (2) has a place of residence in the constituency and possess any of the qualifications prescribed for an elector of a rural constituency.

The qualifications for rural constituencies are that an elector has a place of residence in the constituency and (a) has been entered in the capitation tax assessment roll as liable to pay a capitation tax of not less than Rs. 5, or in the *thathameda* tax assessment roll of the previous agricultural year and has not been exempted from payment of capitation tax or *thathameda* tax, as the case may be, on the ground of poverty or of being an immigrant from a country outside Burma, or (b) has paid during and in respect of previous agricultural or financial year, a tax on circumstances and property under Section 26 of the Burma Rural Self-Government Act of 1921 or (c) has paid during and in respect of previous agricultural year, a land revenue of not less than Rs. 5, or (d) was in the previous financial year assessed to income-tax, or (e) in case of a person possessing a place of residence within the municipalities of Toungoo, Kyaukpau or Thayetmyo, possess qualification prescribed for urban

constituency, or (f) is a retired officer or soldier of His Majesty's regular forces.

### The Draft Burma Electoral Rules

Paras 1 and 2:—Brief explanation of the subject matter of inquiry.

Para 3:—Rules as drafted by the Government of India carry out in the main the proposals of the Whyte Committee and Local Government with certain modifications proposed by the Government of India on the advice of the Secretary of State in Council.

The Committee have decided in nearly every case to accept the proposals of the Local Government in preference to those modifications. They recognise the care with which the Government of India have examined the case and the fact that the adoption of modifications proposed by the Government of India would probably have resulted in a theoretically more perfect scheme, but they were impressed with the importance of adhering as closely as possible to the advice of the committee entrusted with special investigation and of the authority which will be responsible for the successful working of the scheme and has full knowledge of local conditions.

Para 4:—Changes made by the Committee are embodied in the rules as presented to Parliament and the report does not specify them in detail. Observations are confined to a few points of outstanding importance.

Para 5:—Special representation agreed on by all authorities for Europeans, Anglo-Indians, Indians and Karens. The Committee endorse this decision. Sub-para 1:—European representation confined to one seat in view of the unanimous recommendation of the Whyte Committee and of the fact that non-official Europeans are represented by other seats. Sub-para 2.—Indians and Karens:—Some members of the Committee would have preferred the expedient of reserved seats as likely to stereotype the principle of separate representation of communities which the Committee as a whole agree in regarding as a necessity even if a temporary expedient, but the Committee have decided that in all the circumstances the preferable solution is provision of 5 separate communal seats for Indians and 5 for Karens in 5 towns and 5 rural areas respectively. Total communal seats number 15 (including European and Anglo-Indian) out of 79 elected, thus making special provision for Karens and Indians to the extent mentioned in places where these form a considerable proportion of the population. Elsewhere Indians and Karens will be eligible as voters and candidates with the rest of the population, and Europeans will be eligible as candidates in general constituencies.

Para 6 :—The Committee endorse the rules as drafted regarding the eligibility of women to vote and stand for election. The arrangement is an advance on that in other provinces, but the Committee see no ground for dissenting in view of the undoubted fact that the position of women in Burma differs materially from that of Indian women.

Para 7 :—Rules as drafted contain provision giving power to Local Government to split up into single member constituencies certain named plural member constituencies. The Committee think an advantage might result from making this power applicable to any plural member constituency, and commend the suggestion to the Parliament.

Para 8 :—The Committee do not propose transfer of forests but in view of the support it has received, they accept it with some misgivings and record their sense of the heavy responsibilities which Ministers will assume in view of the extreme importance of forests of Burma to the general prosperity of the province.

Para 9 :—The Committee point out that it will be the business of the Parliamentary Commission provided for in the Government of India Act to review exhaustively the evidence of success or failure in the working of the Act, and make recommendation accordingly.

Para 10 :—The Report concludes with the hope that no avoidable delay will occur in securing the approval of Parliament to the draft rules.

[For the Debate in the House of Commons on these rules presented on the 21st June 1922, see p. 208(xxi)]

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Govt. of India Resolutions on  
**The Indian Public Services**  
On Premature Pensions, Etc.

DELHI—8TH NOVEMBER 1921

*The Government of India published at Delhi on 8th November 1921 the following two important resolutions, the first relating to the terms to be granted to officers who wish to retire prematurely from service consequent on the changed conditions brought about by the Reforms Act, and the second dealing with the right of officers to retire under the ordinary regulations.*

**The first resolution runs as follows :—**

In their report on Clause 36 of the Government of India Bill of 1919 the Joint Committee observed, "the Committee think that every precaution should be taken to secure to the public servants the career in life to which they looked forward when they were recruited, and they have introduced fresh provisions into this clause to that end. If friction occurs a re-adjustment of persons and places may often get over the difficulty and the Governor must always regard it as one of his most important duties to establish a complete understanding between his Ministers and the officers through whom they will have to work. But if there are members of the service whose doubts as to the changes to be made are so deeply rooted that they feel they cannot usefully endeavour to take part in them, then the Committee think it would only be fair to those officers that they should be offered an equivalent career elsewhere, if it is in the power of His Majesty's Government to do so, or, in the last resort, that they should be allowed to retire on such pension as the Secretary of State in Council may consider suitable to their period of service."

The principle embodied in this recommendation, namely, that public servants, the conditions of whose employment have been altered by the constitutional changes introduced by the Act of 1919, could not under certain circumstances be fairly required to continue in the service of the Crown in India, was accepted by the Secretary of State. The detailed orders necessary to give effect to it have since been the subject of prolonged consideration by the Government of India and the Secretary of State, and the Government of

India are now in a position to announce the decision of the Secretary of State in Council regarding applications for permission to retire prematurely and the terms which will be granted to officers whose applications are accepted by the Secretary of State. In framing these terms the object aimed at has been to secure as just a mean as can be devised between an offer which is open to the criticism that few of those in whose interests it is made can afford to avail themselves of it and one so liberal as to seem unfair to those who are willing to remain and play their part in the new order ; and while duly recognising the claims of loyal and meritorious service which might have continued both to the public advantage and to the increasing credit of the officer himself, to avoid any unjustifiable addition to the non-effective charges which have to be met from Indian revenues.

#### All-India Services

The constitutional changes introduced by the Act of 1919 have affected the structure of the Central Government and that of the Provincial Governments unequally. The Central Government is still an official Government responsible to the Secretary of State and to Parliament and there has been no such alteration in the conditions of service of officers employed under it as would justify a relaxation of the rules governing retirement and pensions. For the present, therefore, and pending any further constitutional developments which may affect the character of the Central Government, applications for permission to retire prematurely in consequence of the Reforms will be considered only if received from officers who

(1) are members of the following services :

- (a) The Indian Civil Service.
- (b) The Indian Police Service.
- (c) The Indian Forest Service.
- (d) The Indian Educational Service.
- (e) The Indian Agricultural Service.
- (f) The Indian Service of Engineers.
- (g) The Imperial branch of the Civil Veterinary Department.
- (h) Officers of the Indian Medical Service in civil employ.
- (i) Military and other officers holding posts other than listed posts borne on the provincial cadres of any of the above-mentioned services.

(2) are not permanently employed under the Government of India, that is, officers who will not normally serve in future under a Provincial Government ;

(3) have arrived in India for the first time after joining the service in question on a date antecedent to the 1st January 1920, the Act of 1919 having become law a few days before this date.

All applications must reach local Governments before the 31st March 1924, by which date officers will have had ample opportunity to appreciate the effects of the recent constitutional changes and to arrive at a considered decision. Officers of the services specified who do not apply before that date will not be eligible for a pension on premature retirement in consequence of any constitutional developments which may subsequently take place. In the case of Burma, where the Reformed Constitution is not yet in force, the period will be extended beyond the 31st March 1924 to a date which will be announced hereafter.

Every application must be accompanied by a certificate in the following form :

"I consider that the conditions of my service have been radically changed by the introduction of the Reformed Constitution and in consequence thereof I feel unable to serve the Government of India with advantage to the State. I, therefore, desire to be released from the obligations which I undertook in different circumstances."

Applications when received by Local Governments will be forwarded with their recommendations to the Governor-General-in-Council and will be transmitted by him to the Secretary of State whose orders will be required before any officer is finally adjudged entitled to the new concessions. The Secretary of State in Council reserves to himself the right to postpone the acceptance of the resignations of officers until suitable arrangements can be made for their replacement. Officers who are not allowed for this reason to retire immediately will be permitted to retire as soon as the exigencies of the service to which they belong permit.

The compensation normally to be awarded to an officer who is allowed to retire prematurely will be such pension as is appropriate to the conditions and the period of his service. It would be improper, however, to burden Indian revenues with the payment of a pension to any officer who has not completed five years' total service and is, in view of age, in a position probably to take up a new career in life. But in all services alike such officers will be eligible for a gratuity equal to the number of completed years of total service multiplied by their monthly pay at the date of their retirement. This gratuity will be converted into sterling at the rate of 1s. 9d. per rupee, the ordinary rate for the conversion into sterling of Indian pensions expressed in rupees. The pension to be allowed to officers who have completed more than five years' total service will in all cases be based upon the number of completed years of active

service and not of total service. Active service will for this purpose be interpreted in the same way as active service for the purposes of pension in Article 8 of the Civil Service Regulations, war leave being treated for this purpose as privilege leave. The pensions calculated on this basis which will be admissible to officers in the various services are indicated below :

The letter "*n*" = number of completed years of active service.

(A) **Indian Civil Service**—The maximum pension of £1,000 is obtainable after 21 years' active service. The pension admissible will be  $\text{£}n$  divided by 21, multiplied by 1,000, subject to a maximum of £1,000 a year.

(B) **OFFICERS TO WHOM THE ORDINARY PENSION RULES IN PART FOUR OF THE CIVIL SERVICE REGULATION APPLY—**

(1) A maximum ordinary pension of Rs. 6,000 a year is obtainable after 30 years' service of which four years may be spent on leave out of India, i. e., the pension of Rs. 6,000 obtainable after 26 years' active service. In addition these officers may obtain additional pensions under Article 475A of the Civil Service Regulations and for the purpose of the present scheme it is assumed that they will qualify for the maximum lower additional pension of Rs. 1,500 per annum making a total of Rs. 7,500 per annum after 26 years' active service. The pension admissible will therefore be  $\text{Rs.}n$  divided by 26 and multiplied by 7,500 a year, subject to a maximum of Rs. 6,000 a year.

(2) Under the provisions of Articles 403 to 404A of the Civil Service Regulations members of certain services are permitted to additional years to their actual qualifying service for super-annuation pension but not for any other class of pension. Such officers will, however, be allowed to deduct the number of additional years which they may be entitled to reckon under the articles cited from the divisor 26.

(3) The pension will be converted into sterling at the rate of 1s. 9d. per rupee, the ordinary rate for the conversion into sterling of Indian pensions expressed in rupees.

(C) **Officers of the Indian Army IN CIVIL EMPLOY—**Under the provisions of Paragraph 305 of the Army Regulations, India, Volume 2, an Indian Army Officer remains on the effective list of the Army and is eligible for reversion to military employment until he is placed on the supernumerary list on the expiration of ten years from the date of his original transfer to civil employment. An officer not so placed but who desires to take advantage of the concessions set out in this resolution will first be given an opportunity

of returning to military employment and he will not be eligible for any of them unless the Army is unable or unwilling to absorb him.

The ordinary maximum pension obtainable by an Indian Army officer in civil employment is £800 a year. This pension is obtainable after approximately 30 years' total service and for the present purpose it may be assumed that of this period about five years might have been spent on furlough. The pension admissible to these officers will therefore be  $\text{£}n \div 25 \times 800$  subject to a maximum of £800 a year.

(D) **Officers of the Indian Medical Service IN CIVIL EMPLOY.**—An officer of the Indian Medical Service who desires to take advantage of these rules will similarly be given first an opportunity of returning to military employment and he will not be allowed any concession under this resolution unless the Army is unable or unwilling to absorb him.

Under the ordinary rules pensions are admissible to officers of the Indian Medical Service after 17 years' total service. Special provision is therefore required only for officers of less than 17 years' total service. The pension after 17 years' total service is £400 a year of which three years may be assumed to have been spent on furlough and the pension admissible to those officers will, therefore, be  $\text{£}n$  divided by 14 multiplied by 400 subject to a maximum of £400 a year.

In addition to the gratuity of pension admissible to an officer under Paragraph 4, a gratuity equal to the actual cost of first class fares and passages from his last place of employment in India to his new home for the officer himself and for his wife and children if in India, or in the case of passages, free passages of the same number and class will be granted to an officer in India at the time when he retires or goes on leave preparatory to retirement under the terms of this resolution provided that he actually proceeds to some other part of the British Empire. No officer will be entitled to receive any gratuity under this if he is entitled to the maximum pension specified for his service in (4). The gratuity will be payable under the orders of the Local Government under whom the officer is serving when he actually retires or proceeds on leave preparatory to retirement and after the Secretary of State has approved of his admission in due course to the benefits of this resolution.

An officer who desires to retire under the terms set out in this resolution will ordinarily be allowed to take the full amount of leave admissible to him under the regulations for the time being in force subject to the condition that it shall expire on the 31st March, 1924. After that date officers will normally only be allowed to take the

privilege leave admissible to them. It will, however, be within the competence of the Local Government to grant leave which will extend after that date to an officer who has given notice of his intention to retire under these rules before that date if he has enjoyed no leave after the date of this resolution and has after the date of this resolution formally applied to Government for it and been refused leave.

**Indian Civil Service Family Pension.**—In order to secure suitable provision for the widows and orphans of members of the Indian Civil Service, contributions are compulsorily deducted from their salaries during their period of service. A *pro forma* account is maintained of the receipts and payments, and the contribution levied are so adjusted that the pensions provided by the regulations shall not bring any charge on Indian Revenue in excess of the amount specially sanctioned in aid of the pensions and for the cost of management. Members of this Service, who desire to retire under the terms of this resolution, will naturally desire to be informed of the family pension terms, which will be admissible to them. These will be as follows, according to the three permissible alternatives for which the officer elects :—

(A) He may cease to make any contributions and payments under the regulations, and he will retain only the right to a proportion of the contingent benefits under the regulations for his wife and children existing on the date of retirement and for any children subsequently born to that wife. This proportion shall be equal to the number of his completed years of total service divided by 25, and the calculations shall be based upon the pension admissible to the widow of an officer of the class to which he belongs at the time of his retirement.

(B) He may continue up to his 55th birth-day (the age up to which an officer, who resigns the service before becoming entitled to a pension under the ordinary rules, is required to continue to subscribe) if permitted to do so at all, to make contributions under the regulations at the rates payable by him at the date of retirement, and he will then retain the right to the full contingent benefits admissible under the regulations according to his class on the date of his retirement, for his wife existing at the date of retirement and for any children by her, whether born before or after retirement. Under this alternative, subscriptions will be payable under the ordinary regulations for each child, whether born before or after retirement. Further, the widow's pension under the regulations varies with the class of an officer at his death, and in this case the right to the contingent widow's benefit retained will be limited



to the scale applicable to her if her husband had died at the time of retirement.

(C) He may continue up to his 54th birth-day to make contributions and payments under the regulations at the rates which would have been payable by him from time to time had he remained in the service. In this case he will retain the full benefits admissible under the regulations as if he had remained in the service until death or retirement with an ordinary pension. The Secretary of State in Council will make good to the Indian Civil Service Family Pension Fund, under a suitable procedure, any loss which these concessions may be estimated to throw upon it.

A few minor points remain for settlement, e. g., the family pension terms which will be admissible to Indian Army Officers and the conditions upon which the commutation of pensions admissible under Paragraph 4 will be allowed. The decisions on these points will be announced later.

The second resolution mentioned above runs as follows :—

The Governor-General in Council has separately announced the special terms sanctioned by the Secretary of State in Council for officers retiring prematurely in consequence of the introduction of Constitutional Reforms. It is considered desirable to announce at the same time, the under-mentioned general decisions of the Secretary of State in Council as to the right of officers to retire under the ordinary regulations. Note S. under Article 465-A of the Civil Service Regulations, which was introduced with the new pension rules announced on November 15, 1919, reserved to Government an absolute right to decline to permit an officer to retire before reaching the age of superannuation, should it be necessary in the public interests to retain his services. This note has, it is understood, led members of the Services to fear that it may, in the future, be difficult to secure permission to retire before the age of superannuation. Indeed, certain officers, it is believed, have, on this account, refused to accept the new pensions rules. In order to allay this apprehension, it has been decided :—

(a) In the case of officers in service on November 15, 1919, to substitute for the rule in Note 2, under Article 565-A of the Civil Service Regulations a rule giving the right to retire, subject to six months' notice, and

(b) In the case of officers who have joined, or who may join the service after that date, to substitute for the rule in Note 2 a new rule corresponding to the rule in Article 561 of the Civil

Service Regulations (which has always been applicable to members of the Indian Civil Service) and permitting them to retire on pension under the ordinary rules when their resignations have been accepted. Any officer who may have declined to elect to come under the provisions of the new pensions rules, because of his objection to this Note, may now elect in writing before March 31, 1922, to do so. This option applies also to any person who may have retired already after the announcement of the new pension terms in November 1919.

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## The Revised Indian Civil Service Regulations

The Provisional Regulations for admission to the Indian Civil Service by an annual competitive examination in India, which were published on 19th December 1920 (see *I. A. R. 1921* part II, p. 247) have now been superseded by new Regulations made by the Secretary of State in Council. These regulations were published on April 21, 1922 and are liable to alteration from year to year :—

(1) A competitive examination for admission to the Indian Civil Service shall be held annually in India in the months of February and March or at such other time as the Governor-General in Council may direct.

(2) The maximum number of candidates to be admitted to the examination shall be 200.

(3) Of the candidates to be admitted the number to be drawn from each area are specified below. Such number is hereinafter referred to as "Provincial Quota"; Assam—5; Bengal—33; Behar and Orissa—22; Bombay—25; Burma—15; Central Provinces—12; Madras and Coorg—33; Punjab, N. W. F. Province and Delhi—25; and United Provinces and Ajmere-Merwara—30.

(4) The Local Government of every Governor's Province and of the Province of Burma shall appoint a committee to be called the "Quota Committee," the majority of the members of which shall be non-officials. Each Quota Committee shall select the Provincial Quota for the area comprising the Province by the Local Government of which the Committee is appointed, from among such of the persons applying for admission to the examination from that area as possess the qualifications hereinafter prescribed. The selection or rejection of an applicant by the Quota Committee shall be final. Provided nevertheless, that the Local Government may remove from the Quota a candidate who is reported by a Medical Board to be physically unfit for appointment to the Indian Civil Service.

(5) The Local Government of Madras and of the United Provinces shall be responsible for the due representation of Coorg and Ajmere-Merwara, respectively, on the Quota Committees appointed by them, and the Local Government of the Punjab shall, in like manner, be responsible for the due representation of the North-West Frontier Province and Delhi.

(6) A person desiring to be admitted to the examination shall apply, before such date as the Governor-General of India in Council may prescribe, to the Quota Committee for the area in which his parents reside at the time of application, or have previously resided for a period of not less than three years, or in which he has himself resided otherwise than as a student at a University only for a like period. Provided that application shall not be made to more than one such Quota Committee. Provided, further, that persons resident in State in India shall apply through their Durbars to the Quota Committee for the area comprising the province in which they wish to serve and that, for the purposes of Rule 3, such persons shall, if selected by the Quota Committee, constitute a part of the Provincial Quota for such area.

(7) Application shall be made at such time and in such manner as the Governor-General in Council may prescribe.

(8) A candidate must be either a British Subject, or a Ruler or Subject of a State in India in respect of whom the Governor-General in Council has made a declaration under Section 96—A. of the Government of India Act. If a candidate (being a British Subject), or his father, or his mother was not born within His Majesty's Dominions and allegiance, the father must at the time of the candidate's birth have been a British Subject or Subject of a State in India, and, if alive must be, or if dead, must have continued to be until his death, a British Subject or a Subject of such State.

(9) A candidate must have attained the age of 21 and must not have attained the age of 23 on the first day of August in the year in which the examination is held, or be in a position to claim such a concession under the provisions of the Appendix to these Regulations as will render him eligible.

(10) A candidate must be free from disease, constitutional affection or bodily infirmity unfitting him, or likely to unfit him, for the Indian Civil Service.

(11) A candidate must be of good moral character.

(12) A candidate must hold the degree of BA., or B.Sc., of a University incorporated by law in British India, or of the Mysore University, or the Senior Diploma of the Mayo College, Ajmer.

(13) No candidate shall be admitted to the examination unless he holds a certificate of selection by a Quota Committee.

(14) Any attempt on the part of a candidate to enlist support for his application through persons of influence will disqualify for appointment. Spontaneous recommendations from persons who are not themselves acquainted with a candidate's work at school or at a University, or otherwise, will be disregarded.

(15) A candidate will pay a fee of Rs. 5 with his application

form, and a candidate chosen for admission to the examination will pay a further fee of Rs. 100.

[The regulations then give in detail the subjects for examination.]

A list of competitors shall be made out in order of their proficiency as disclosed by the aggregate marks finally awarded to each competitor, and in that order, so many competitors up to the determined number of appointments as are found by the Civil Service Commissioners to be qualified by examination, shall be designated to be Selected Candidates for the Indian Civil Service, provided that the Governor-General of India in Council is satisfied that they are duly qualified in other respects. Should any Selected Candidate become disqualified, the Secretary of State for India will determine whether the vacancy thus created shall be filled or not. In the former case the candidate next in order of merit, and in other respects duly qualified shall be deemed to be a Selected Candidate. Selected Candidates will be on probation for two years in the United Kingdom.

#### Selected Candidates on Probation

Candidates selected at the open competition held in London will be required to remain in the United Kingdom on probation for one or two years, as may be decided by the Secretary of State for India in Council. Candidates selected at the competitive examination held in India will be required to proceed to the United Kingdom on probation for a period of two years.

**ONE YEAR PROBATIONERS.**—One year probationers will, at the end of the year of probation, undergo an examination called the Final Examination on Indian Criminal Law, Indian History, the vernacular of the Province, and Riding.

An Indian assigned to Madras, whose mother tongue is one of the two principal vernacular language of the Province, must offer the other for examination. An Indian assigned elsewhere, whose mother tongue is the principal vernacular language of the Province to which he is assigned, must substitute British History (1760-1914) in place of the Vernacular Language.

**TWO YEAR PROBATIONERS**—will during their period of probation undergo two examinations, the Intermediate Examination at the end of the first year and the Final Examination at the end of the second year. The subjects of the Intermediate Examination are the Principal Vernacular Language of the Province, Jurisprudence, Law of Evidence and Criminal Law, Indian History, Notes of Cases, and Economics.

The Selected Candidates whose performance in the compulsory subjects of the prescribed examinations, namely, the Final Examination for one year men and the intermediate and Final Examinations for two year men, is such as to satisfy the Civil Service Commissioners, and who have also satisfied the Commissioners of their eligibility in respect of nationality, age, health, character and conduct during the period of probation, shall be certified by the Commissioners to be entitled to be appointed to the Indian Civil Service, provided that they shall comply with the regulations in force at the time for that Service.

If any Candidate is prevented by sickness or any other adequate cause from attending the Final Examination, the Commissioners may, with the concurrence of the Secretary of State for India in Council, allow him to appear at

the Final Examination to be held in the following year or at a special examination. A Selected Candidate absent for such adequate cause from the Intermediate Examination may under similar conditions be allowed to appear at the Intermediate Examination a year latter, or at a special examination, or may be excused the Intermediate examination and allowed to appear for the Final Examination in the regular course.

The above regulations will be the first regulations issued for the probation and the Intermediate and Final Examinations of Selected Candidates recruited by competitive examinations held in India, and will also take the place of Sections 16 to 27 of the Regulations previously made by the Secretary of State for India in Council for the examination of candidates for the Indian Civil Service at the open competition held annually in the United Kingdom.

### Sanction of the Sec. of State for new Posts etc.

The Secretary of State for India in Council has made new rules superseding all existing rules under which certain classes of expenditure from central and provincial revenues may not be sanctioned by the Government of India or Provincial Governments, without the previous consent of the Secretary of State in Council. These were published on October 6th, 1922.—In the case of the Government of India, the sanction of the Secretary of State in Council is necessary :—

(1) To the creation of any new or the abolition of any existing permanent post, or to the increase or reduction of the pay drawn by the incumbent of any permanent post, if the post in their case is one which would ordinarily be held by a member of one of the services named in the Schedule, or to the increase or reduction of the cadre of any of those services. (2) To creation of a permanent post on a maximum rate of pay exceeding Rs. 1,200 a month, or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 a month. (3) To the creation of a temporary post on pay exceeding Rs. 4,000 a month, or the extension beyond a period of two years (or in the case of a post for settlement operations, of five years) of a temporary post or deputation on pay exceeding Rs. 1,200 a month. (4) To the grant to any Government servant, or to the family or other dependents of any deceased Government servant, of an allowance, pension or gratuity which is not admissible under the rules made or for the time being in force under section 96-B of the Government of India Act, except in the following cases :—(a) Compassionate gratuities to the families of Government servants left in indigent circumstances, subject to such annual limit as the Secretary of State in Council may prescribe, and (b) pensions or gratuities to Government servants wounded or otherwise injured while employed in Government service, or to the families of Government servants dying as the result of wounds or injuries sustained while employed in such service, granted in accordance with such rules



as have been or may be laid down by the Secretary of State in Council in this behalf. (5) To any expenditure on the purchase of imported stores or stationery, otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council. (6) To any expenditure otherwise than in accordance with such rules as have been or may be laid down in this behalf by the Secretary of State in Council upon (A) the erection, alteration, furnishing or equipment of a church, or a grant-in-aid towards the erection, alteration, furnishing or equipment of a church not wholly constructed out of public funds, or (B) the provision of additions to the list of special saloon and inspection of railway carriages reserved for the use of high officials, or (C) the staff household and contract allowances, or the residences and furniture provided for the Governor-General or railway and military services.

#### The Schedule

Indian Civil Service, Indian Police Service, Indian Forest Service, Indian Educational Service, Indian Agricultural Service, Indian Service of Engineers, the Imperial Branch of the Civil Veterinary Department, Indian Medical Service, Imperial Customs Service, Indian Audit and Accounts Service, Superintendents and Class I of the Survey of India Department, the Superior Staff of the Geological Survey of India Department, the Superior Telegraph Department, the State Railway Engineering Service, the Superior Staff of the Assam Department, the Archaeological Department and any other service declared by the Secretary of State in Council to be included in this schedule.

#### Provincial Governments

In the case of Provincial Governments the previous sanction of the Secretary of State in Council would be required :

(1) To the creation of any new or the abolition of any existing permanent post, or to the increase or reduction of the pay drawn by the incumbent of any permanent post, if the post in either case is one which would ordinarily be held by a member of an All-India Service, or to the increase or reduction of the cadre of an All-India Service. (2) To the creation of a permanent post on a maximum rate of pay exceeding Rs. 1,200 a month, or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 a month. (3) To the creation of a temporary post on pay exceeding Rs. 4,000 a month, or the extension beyond a period of two years (or in settlement operations of five years) of a temporary post or deputation on pay exceeding Rs. 1,200 a month. (4) To the grant to any Government or to the family of any deceased Govt. servant of an allowance, pension or gratuity which is not admissible under rules made, or for the time being in force under Section 96-B of the Govt. of

India Act, except in the following cases :—(Same as 4 (a) & (b) above)

(5) Any expenditure on the purchase of imported stores or stationery otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council. (6) Capital expenditure upon irrigation and navigation works, including docks and harbours, and upon projects for drainage, embankment and water storage, and the utilization of water-power in any of the following cases, namely : (A) where the project concerned materially affects the interests of more than one local Government, (B) where the original estimate exceeds 50 lakhs of rupees ; (C) where a revised estimate exceeds by 15 per cent. an original estimate sanctioned by the Secretary of State in Council, and (D) where a further revised estimate is proposed after one revised estimate has already been sanctioned by the Secretary of State in Council. (7) A revision of permanent establishment, involving additional establishment charges exceeding Rs. 5 lakhs a year, provided that if a resolution has been passed by the Legislative Council recommending an increase of establishment charges for this purpose, the sanction of the Secretary of State in Council shall not be required unless the expenditure so recommended exceeds 15 lakhs a year. (8) Any increase of the contract, sumptuary or furniture grant of a Governor. (9) Expenditure upon original works on the residences of a Governor, exceeding Rs. 50,000 in any year. The Governor-General in Council shall, if necessary, decide whether a charge falls under the head of original works. (10) Any expenditure upon railway carriages or water borne vessels specially reserved for the use of high officials, otherwise than in connection with the maintenance of such carriages or vessels already set apart with the sanction of the Secretary of State in Council for the exclusive use of a Governor.

(1) Every application for the sanction of the Secretary of State in Council required by rule 1 shall be addressed to the Governor-General in Council who shall, save as hereinafter provided, forward the same with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the Local Government to the Secretary of State in Council.

(2) If the application relates : (A) to the grant in an individual case of any increase in pay or (B) to the creation or extension of a temporary post, the Governor-General in Council may, at his discretion, on behalf of the Sec. of State in Council sanction the proposal, or may, and if he dissents from the proposal shall, forward the application with his recommendations and with such further explanations of the proposal as he may have seen fit to require from the Local Government for the orders of the Sec. of State in Council.

## Correspondence between Whitehall and Simla on The Central and Provincial Finances

Despatch of the Govt. of India to the Secretary of State, dated, Simla, 13th July 1922, on Financial contribution and adjustment between the Central and Provincial Governments in India.

*To the Rt. Hon. the Sec. of State for India*

MY LORD,

As your Lordship is aware, a conference was held at Simla in April last with the Finance Members and other financial authorities of the Provincial Governments in order to consider various matters connected with the financial arrangements between the central Government and the provinces. We now have the honour to submit a report on the more important matters discussed at the conference ; you will be addressed separately, if necessary, regarding certain other subjects which the conference gave an opportunity of discussing with the provincial representatives.

Before setting forth the conclusions reached in the conference on the matters with which this dispatch deals, and our own views thereon, we invite our attention to the enclosed statements (not published) which set forth the present financial position of each province as ascertained at the conference. Summarised briefly, the position is as follows :—

### Financial Position of Various Provinces.

The statement for Madras shows a deficit in the current year's budget of 42 lakhs, with a closing balance (apart from the Famine Insurance Fund) of only Rs. 15,000. This province has had deficits four years in succession and the chief cause of this is stated to be the necessity for increasing the pay of the enormous subordinate staff which is required to maintain its very detailed system of administration. The provincial Government, while urging us to reduce the large contribution payable by them to central revenues, have nevertheless faced the position with resolution and have taken active steps to reduce expenditure. They have recently abolished 60 gazetted posts and about 12,500 other posts including the subordinate staff maintained in villages. The Land Records department has been abolished, the Labour department reduced to one officer, travelling allowances have been reduced by 10 lakhs and the programmes for education, sanitation and public works have been seriously curtailed, the Public Works department, in particular,

having been reduced by one superintending engineer, seven executive engineers and twenty-one sub-divisional officers. The Government of Madras are further contemplating the abandonment of minor forest reserves, the replacing of stipendiaries by honorary magistrates, the trial of civil suits in village courts instead of the court of the district munsifs, the doubling up of districts, divisions, and taluks and other measures which, they consider, will seriously affect the efficiency of the administration. The deficit in the current year would have been very much higher had it not been that the provincial Government have taken steps to increase their revenues by Rs. 77 and half lakhs from an increase in stamp duties and registration fees.

In Bombay the budget shows an expenditure of Rs. 50 lakhs in excess of income. The major portion of this deficit is due to the heavy expenditure on the service or debt in connection with the loans for development operations, which, it is anticipated will ultimately be repaid from the sale of developed land. This province also has taken steps to increase its revenues by Rs. 60 lakhs of receipts from higher stamp duties.

The Bengal statement is the only one that shows a revenue surplus in the current year. This province has been able to reach this comparatively satisfactory position owing to the remission of the contribution to the central Government, and to receipts from fresh taxation amounting to Rs. 1,40 lakhs.

The budget of the United Provinces shows a deficit of nearly Rs. 27 lakhs. No additional taxation has been imposed in this province, certain proposals, which the local Government brought forward for the enhancement of the stamp duties, having been rejected by the Legislative Council.

The Panjab budget shows a very heavy deficit of Rs. 1.30 lakhs in the current year, of which only some Rs. 22 lakhs are considered to be abnormal. This province not only has no balance but is expected to end the last financial year with an overdraft of Rs. 90 lakhs. No additional taxation has been imposed in order to cover the large gap between current revenue and current expenditure, but it is understood that proposals are under consideration for the enhancement of stamp duties, court-fees and water-rates.

In Burma there is a deficit of Rs. 1,90 lakhs in the current year, but as Rs. 2,02  $\frac{3}{4}$  lakhs of the expenditure is being financed from the portion of the balance which represents the amount which this province received from the rice control scheme, there is an actual revenue surplus on the year's working of about Rs. 12  $\frac{3}{4}$  lakhs. This province has further a closing balance of about Rs. 3 crores.

The Bihar and Orissa budget shows a deficit of Rs. 51 lakhs in the current year. The local Government have under consideration proposals for increasing court fees, for an increase in irrigation rates and a cess on coal loaded at collieries. No legislation has yet been passed, but the local Government have raised the registration fees since the budget was passed.

The Central Provinces budget shows a deficit of nearly Rs. 37 lakhs, but the estimates of revenue are abnormally high including, as they do, Rs. 34 lakhs of suspended revenue of previous years, and the normal revenue deficit is put roughly at about Rs. 50 lakhs. No measures for additional taxation have yet been passed in this province, but the local Government have under consideration proposals for increases in court fees, registration fees, and stamp duties, which it is estimated might bring in about Rs. 19 lakhs.

The Assam budget shows a deficit of Rs. 14 lakhs after allowing for additional revenue of some Rs. 3 lakhs from enhancement of stamp duties. The only further proposal at present under consideration of the local Government for raising additional revenue is the revision of registration fees.

3. It will be seen therefore that every province, with the exception of Bengal and Burma, is at present working on a deficit, that steps have been taken by the Governments of Madras, Bombay, Bengal and to a certain extent, by Bihar and Orissa and Assam to raise additional revenue by increases of taxation, but that in the United Provinces, the Punjab, Burma, and the Central Provinces no additional taxation has yet been imposed.

Not only are the majority of the provinces at present working on a deficit but they also contemplate very considerable capital expenditure to be financed from loan funds.

#### Local Govt's. Contemplating Capital Expenditure

The Government of Madras propose to undertake remunerative capital projects (mainly irrigation) in the next five years, involving a capital expenditure of about Rs. 4 crores; they have also in contemplation expenditure amounting approximately to Rs. 4 crores for unremunerative capital projects chiefly in connection with buildings and roads; and they further anticipate that the local bodies in the presidency will require for their own purposes loan aggregating Rupees seven and half crores. The total amount of loans which they themselves require or for the financing of which they will be responsible is approximately Rs. 15 crores in the next five years.

The Government of Bombay have a programme of capital expenditure on the Sukkur Barrage and protective irrigation works which would require a provision of about Rs. 14 crores within the

next five years, they also anticipate that they will require in connection with the Bombay Development Scheme, loans to local bodies, etc., (according to present information) about Rs. 25 crores in the next five years.

The Government of Bengal took a loan of Rs. 50 lakhs from the central Government last year and propose to take another loan of Rs. 50 lakhs in the current year on account of dredgers which have already been ordered through the High Commissioner. In their future capital expenditure they consider the most urgent item to be the Howrah Bridge, the total cost of which is put at not less than Rs. 3 & 1/2 crores. Towards this project the Calcutta Corporation and other local bodies will be required to contribute, but a loan has to be raised initially by the Bengal Government. They are also considering the question whether the Grand Trunk Canal scheme which is estimated to cost about Rupees three and half crores will be remunerative. If it is not remunerative, the project will be dropped. The local Government also wish to take loans for general schemes of development amounting about Rs. 4 crores. They put their minimum requirements for the next five years at Rupees seven and half crores, *viz.*, Rupees three and half crores for the Howrah Bridge and about Rs. 4 crores for general provincial schemes, but their maximum requirements might involve an additional Rs. 2 crores for general provincial schemes and Rupees three and half crores for the Grand Trunk Canal scheme if it can be worked on a remunerative basis.

The United Provinces Government have already raised a loan of Rs. 4 crores, and in the current year they are drawing upon their balances to the extent of Rs. 193 lakhs. They contemplate that they will require no further loan until 1923, but that within the next five years they will have to raise further loan amounting to Rs. 10 crores for the purpose of financing irrigation schemes and schemes for the improvement of communications and sanitation, for capital outlay on the development of forests and for large building programmes, the average annual requirements from 1923 onwards being put at Rs. 2 crores.

The Punjab Government have under contemplation large schemes—mainly irrigation and hydro-electric projects—involving a total expenditure of about Rs. 47 crores in the next 20 years, the average annual amount required from loans being put at about Rs. 3 crores per annum during the next five years. These schemes include the Sutlej valley irrigation projects and the Sutlej river hydro-electric scheme.

The Governments of Bihar and Orissa, the Central Provinces and Assam have no schemes of sufficient magnitude to be taken



into consideration in this connection while Burma is still in a position to finance its immediate capital requirements from the balance of rice profits. The total requirements of the provinces for capital projects within the next five years may, therefore, be put at approximately Rs. 18 crores per annum.

**Action Must Speedily be taken to Improve Position.**

It is obvious from the above review of the financial position and financial requirements of the provinces that action must speedily be taken to improve their financial position if they are to carry on their administration on the present scale and to undertake any of the improvements and schemes which they have in view. We recognize that the gradual reduction and final abolition of the provincial contributions would materially improve the financial position of most provinces. Our hon. colleague Sir Malcolm Hailey impressed, however, upon the provincial representatives that, while we recognized the seriousness of the financial position of most provinces, it would be impracticable for us to give them any relief in the near future from this source. We think, indeed, that the provinces are now fully seized of the difficulties of our own position and of the fact that, inspite of large increases in taxation imposed in our last two budgets and of the economies in expenditure already effected and, we may hope, likely to result from the appointment of Lord Incheape's Committee, equilibrium between revenue and expenditure in the central budget is not yet attained and that until that position has been reached, a reduction of the provincial contributions cannot be looked for. As we have already stated, several provincial Governments have taken steps to enhance the rates and taxes which have been assigned to the provinces and we consider it of the utmost importance that the remaining provinces, in so far as their deficits will not be covered by the further economies which we understand they are contemplating, should follow suit without delay. for, as your Lordship has pointed out in your telegram of the 28th March 1922 the financing of provincial deficits by advances from the central Govt. is at the best a most unsatisfactory expedient.

As regards the provincial programmes of capital expenditure, it is clear that an attempt to carry these through in full will place an unduly heavy strain upon the borrowing resources of the country as a whole, and the provincial representatives were warned that all-India interest might necessitate the postponement of many of the schemes for expenditure debitable to loan funds which provincial Governments desire to take in hand. We need hardly say that we shall give this aspect of the situation very careful attention when exercising our powers under the borrowing rules.

*THE WHITE PAPER ON*  
**Bombay Government's Proposal.**

With a full knowledge of the financial difficulties and of the steps taken to remove them both in the central Government and in each province, the conference proceeded to discuss the situation. Among the first subjects for consideration were certain proposals of the Government of Bombay for a revision of the allocation of revenues between the central Government and the provinces which was fixed by the Devolution Rules on the basis of the recommendations contained in the Montagu-Chelmsford Report and the report of the Financial Relations Committee. In a letter addressed to the Government of India before the conference took place, the local Government pressed for a complete revision of the settlement, to be undertaken after full consultation with the representatives of the provinces. Pending this revision, which the local Government recognised would take time to complete, the Government of Bombay asked for temporary relief by the concession to themselves of one-third of the amount by which the income-tax collected by the central Government in each year exceeded the standard figure of 1920-21. When the conference assembled the Bombay representative put forward a suggestion that a system of divided heads might again be considered, and proposed that the local Government should in future receive half the amount collected as income-tax in the presidency and should cede to the central Government in return one-half of its receipts of land revenue.

The representatives of all the other provinces strongly opposed the entertainment of any idea of reversion to a system of divided heads. We completely identify ourselves with this opposition. The abolition of divided heads was emphasized as a most important feature of the reforms proposals in paragraphs 109 and 200—203 of the Montagu-Chelmsford Report and was accepted as much without further discussion by all authorities concerned. A clear division of revenues between the central and local Governments was the basis of the whole scheme of Reforms, and we consider it axiomatic that, unless such a division is made and entirely separate revenue resources are secured to each Government, there can be no provincial autonomy in any sense of the term.

**Bengal's Plea for Revision of the Financial Settlement.**

8. The representatives of the other provinces, with the exception of Bengal, evinced strong disapproval of the proposal to revise the financial settlement. While they laid the greatest possible stress upon the necessity for the speedy reduction and abolition of the provincial contributions, they held firmly to the view that the existing financial settlement, as contained in the

Devolution Rules, should be retained intact. They pointed out that the settlement had been made after full enquiry by an impartial committee and had been accepted by Parliament after every province had been allowed to state its views regarding the proposals of the Financial Relations Committee, and they urged that the statutory arrangements so fixed should be rigidly observed. The only difference in the attitude of the Bengal representatives from that of the other provinces was that, while the representatives of other provinces were strongly opposed to any disturbance in the future of the present distribution of revenues between the central and local Governments, the Bengal representatives stated, that the revenues they had obtained under the existing settlement were insufficient to cover the cost of the ordinary administration as it stood at the time of the introduction of reforms, that the relief afforded by the remission of the provincial contribution was inadequate, and that, while they quite realised that in the existing financial position it was impossible for the central Government to afford any further relief at present, they would, when the financial position of the Government of India improved, again raise a claim that some additional source of revenue should be assigned to them.

9. All provincial representatives were further most emphatically of opinion that, since the allocation of revenues between the central and local Governments and the contributions payable by the local Governments had been definitely fixed by statute, no action should be taken by the Secretary of State in Council or by the Government of India for the benefit of any province which would be likely to prejudice the interests of other provinces, without the latter being given an opportunity of commenting thereon before-hand. In particular, the concession to the Bengal Government was cited as one in which action was taken without any previous consultation, the result being, in the opinion of the other provinces, that their interests had been prejudicially affected. All members attending the conference were unanimously of opinion that, should there be any question of disturbing the settlement embodied in the Devolution Rules, no action should be taken in that direction until the proposal had been referred to, and considered by, an impartial committee before which each province should have an opportunity of stating its case.

10 We are in entire agreement with the view expressed by the provincial representatives that no question of altering in any way the present financial settlement should be considered except by an impartial committee and after full discussion with each of the provinces. We further agree with the representatives of all provinces, except Bombay and Bengal, that the present settlement

should be retained intact. We adhere to the view expressed in our first Reforms despatch that it is essential that the financial arrangements between the central and provincial Governments should be free from ambiguity, and we are of opinion that it would be most disastrous to hold out hopes to the province of the possibility of the present financial settlement being disturbed—at all events until the provincial contributions have been abolished. Any such hope would have the effect of encouraging the provincial Legislative Council to sanction new expenditure without undertaking the liability of raising the necessary revenues. Without financial responsibility there can be no responsible Government. We would renew the undertaking, given in the despatch of Lord Chelmsford's Government, No. 296, dated the 24th June, 1920, that we would work our financial policy towards reducing, and ultimately abolishing, the existing financial contributions, but, as stated in that despatch, we can give no undertaking as the definite period within which the contributions will be abolished or as to the pace of reduction. You are aware of our present financial position, of the heavy additions we have made to the rates of taxation from which our central revenues are derived and of the appointment of a Retrenchment Committee to effect the utmost possible reduction in expenditure. As our uncovered deficit amounts to about Rs. 10 crores and provincial contributions to another Rs. 9 and quarter crores, it is obvious that, unless a marked revival in trade results in the narrowing of the present gap between revenue and expenditure, very considerable retrenchment will have to be effected or substantial additional taxation imposed before the provincial contributions can be abolished.

11. Neither can we accept the proposal of the Government of Bombay for a temporary increase of the resources of the local Government by the assignment to it of one-third of the growth of revenue from income tax. We adhere unreservedly to the views as to this source of revenue which were expressed by Lord Chelmsford's Government in paragraph 7 of their despatch No. 296, dated the 24th June, 1920. Moreover, any reduction of the amount of growing revenues at the disposal of the central Government must react upon the provinces generally; and the proposal to make such a reduction, even as a temporary measure, without full consideration of the views of other provinces, is open to the objection set forth in paragraph 9, of this despatch. We therefore recommend that this proposal also should be rejected.

12. If you agree with our conclusions we would ask your permission to publish this despatch and your reply thereto. We have been much impressed by the views expressed by the representatives

of the provinces as to the necessity for the publication of a clear statement on the financial position in order to remove numerous misapprehensions and to indicate clearly to the members of the central and provincial legislatures the nature of their financial responsibilities in their respective spheres.

We have the honour to be,

My Lord,

Your Lordship's most obdt. & humble Servants.

READING.

RAWLINSON.

W. H. VINCENT.

MUHAMMAD SHAFI.

B. N. SARMA.

T. B. SAPRU.

C. A. INNES.

E. M. COOK.

## Secretary of State's Reply

*To H. E. The Governor-General of India in Council*

My Lord,

I have considered in Council your Financial Despatch No. 13, dated the 13th July, 1922, in which you report the result of the conference held at Simla in April last with financial representatives of provincial Governments to discuss various matters arising out of the financial situation in the provinces, and your conclusions thereon. It appears to me that the conference has served a valuable purpose. Issues of great importance to the stability of the central and the local Governments have been carefully explored by officers conversant with the difficulties that at present surround Indian finance. Though complete agreement on all points may not have been attained, it may be hoped that the removal of misunderstandings will result in the cordial co-ordination of the efforts of all concerned in the task of restoring to a sound position the finances of India as a whole.

The financial statements forwarded with your despatch set out the position in the several provinces and justify the serious concern which your Government and I have for some time felt on the subject. The estimated revenue and expenditure of the nine provinces for 1922-23 is as follows :—

## THE WHITE PAPER ON

(Figures in Lakhs of Rupees.)

	Madras.	Bombay.	Bengal.	United Provin- ces.	Punjab.	Burma.	Bihar and Orissa.	Central Provin- ces.	Assam.	Total.
Revenue (in- cluding new taxation).	16,77 (78)	14,92 (60)	10,56 <sup>*</sup> (140)	13,59	11,38	10,01	4,63	5,35	2,08 (3)	89,29 (281)
Expenditure	17,19	15,42	10,37	13,86	12,68	9,88*	5,14	5,72	2,23	92,49
Defic ...	42	50	...	27	1,30	...	51	37	15	3,52
Surplus ...	...	...	19	...	...	13	...	...	...	32

Net deficit (all provinces) 3,20

Equilibrium between current revenue and expenditure is only found in two provinces, Burma and Bengal, and in the latter this result has only been attained by the temporary remission of its contribution to the central Government. The aggregate deficits of the other seven provinces, amounting to 352 lakhs, will be financed by drawing on balances and by loans from the public and the central Government. It may be remarked, however, that the process of financing provincial deficits in part from the accumulated revenue balances of the past will now practically come to an end, as such balances will be generally exhausted by the end of the current financial year.

I share to the full the regret which your Government and the local Governments must feel that the expectations held when the financial settlement was drawn up have been disappointed. It was then hoped that the increased resources placed at the disposal of the provinces as a result of that settlement would assist them in financing large schemes of economic and social development, for which the need is generally recognised. In spite of the nonfulfilment of these hopes it still remains true that the settlement laid down as the result of the Financial Relations Committee's Report has placed at the disposal of local Government considerable sums which would not have accrued to them under the pre-existing arrangements; but so far from being available for meeting new demands, the money, for reasons in the main beyond the control of the authorities, has had to be largely devoted to financing the increased cost of administration, due primarily, to the general rise in prices, from which India is suffering in common with other countries of the world.

\* Excluding all rice profits figures.



**No Relief Possible From Financial Contributions.**

There has, in these circumstances, perhaps not unnaturally, been a tendency in some quarters to assume that the obvious remedy is the immediate remission or reduction of provincial contributions. But such a measure would do nothing towards increasing the aggregate of the resources available for meeting central and provincial expenditure, and so long as the balancing of the central budget has not been achieved, its only effect would be to transfer responsibility for a further deficiency of revenue to the central Government. The imposition in the central Government's budgets of 1921-22 and 1922-23 of additional taxation estimated to produce 23 crores of additional resources (apart from the yield from increased railway and postal charges), leaves a gap which is estimated in paragraph 10 of your despatch about at 10 crores between the Government of India's revenue and expenditure; and the increase of this deficiency by a general reduction of the provincial contributions would not only be highly prejudicial to the interests of your Government, but would also affect the credit of India as a whole to the detriment of the provincial Governments. While no relief is, in the present circumstances, possible for the provinces from this direction, and no pledge can be given as to the period in which reduction or remission will be practicable, I fully endorse your proposal to renew formally the undertaking that you will shape your financial policy towards the reduction and ultimate extinction of the contributions.

It is, of course, impracticable to make a change in this settlement contained in the Devolution Rules approved by Parliament for the purpose of redistributing the resources of the provinces between themselves. I am, therefore, forced to the conclusion in paragraph 10 of your despatch, that the present system as laid down in the Devolution Rules should be maintained. The sole alteration hitherto made, *viz*, that in favour of Bengal, was, as you are aware, only decided on in view of the special recommendation on behalf of that province made by the Joint Select Committee in their report to Parliament on the Devolution Rules before their adoption. For the reasons which I have stated above I am also unable to accept the proposals put forward by the Government of Bombay for the modification of the existing settlement.

**Measures Ought to be Adopted to Increase Revenue.**

If the financial stability of the provinces is not to be undermined, with ultimate jeopardy to the Government of India itself, it is impossible to contemplate the continuance of a series of provincial deficits financed by borrowing either direct from the public or from the central Government. Equilibrium can only be

achieved by reduction of expenditure and the adoption of measures which will lead to an increase of revenue.

I note that action has already been taken in some provinces in both these directions. Others doubtless appreciate the necessity for taking similar steps without delay. In this connection all provinces which have not yet done so might with advantage consider forthwith whether they would not be well advised to follow the example of central Government in appointing a Retrenchment Committee. It is also not clear whether sufficient attention has been given to the exploration of all possible fresh resources of provincial revenue. The high position was due to the careful management of Indian finances, and a rapid deterioration would be certain to follow if matters are allowed to drift. It is incumbent upon the local Governments and their legislatures to face the situation with courage and resource and with a fixed determination to accomplish the balancing of their budgets.

#### The Danger of Meeting Unproductive Expenditure from Loans

The considerations discussed above have also an important bearing on the capital programme of the provincial Governments. I share your view that the financing in full of all the provincial programmes of capital expenditure, together with your own heavy capital requirements, is likely at the best to place an unduly heavy strain on the loanable resources of India even when supplemented by borrowings in the United Kingdom. The danger of this is seriously increased if, in addition to borrowing for productive purposes, the provinces have to rely on loans for meeting expenditure which should properly be met from revenue. When the provincial legislatures realise that failure to secure budget equilibrium cannot but handicap all schemes for social progress and for the development of provincial resources, I feel assured that they will support the executive Government in the adoption of the necessary measures for remedying the existing position.

I cannot close this despatch without an expression of regret that the new provincial Councils should, like the Legislative Assembly, have found themselves, so early in their history, confronted with a financial situation of such difficulty. The task of ordering its finances is a primary function of Government, and I am confident that the heavy burden of responsibilities placed on the provinces will be firmly shouldered.

I approve your proposal to publish your despatch and this reply.

I have the honour to be,

My Lord,

Your Lordship's most obdt. & humble Servant,

PEEL

## Report of the Indian Press Act Committee.

In accordance with the instructions contained in the Home Department Resolution No. 534, dated the 21st March 1921, we the members of the Committee appointed by the Government of India to examine the Press and Registration of Books Act, 1867, the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, have the honour to report for the information of Government and such action as they may think desirable, our conclusions on the question referred to us for examination.

2. These conclusions have, we may state, been reached after a careful survey of the political situation, an exhaustive examination of witnesses who appeared before us, and scrutiny of voluminous documentary evidence including the valuable and weighty opinions of local Governments placed at our disposal by the Government of India as well as of memoranda submitted to us by various members of the public. Many of these memoranda were sent in response to a general invitation issued by the Government of India to those interested in the subject under discussion to communicate their views to Government for the information of the Committee. We have examined orally 18 witnesses, all connected with the Press, and we also invited eight other prominent journalists to give evidence. To our great regret they were, however, either unable or in some cases unwilling to accept our invitation.

### The Indian Press Act

3. Of the Acts referred to us for examination, the Indian Press Act, 1910, is by far the most important and it will therefore be convenient, if, in the first place, we record our conclusions in respect of that Act. This is the more desirable because our recommendations in respect of the other two Acts referred to us must be largely dependent on our findings regarding this measure.

It is necessary to discuss in this report the reasons which induced the Government of India to place the Indian Press Act on the statute book. Those who are interested in the subject will find the facts fully explained in the reports of the discussions on the Bill in Council. It is apparent, however, that the main object of the Act was to prevent the dissemination of incitements to violence and of sedition, although the scope of section 4 of the Act is much wider. Since 1910, however, circumstances have changed very materially and we have to consider the necessity for the continuance

of this law in the light of a political situation entirely different from that in which it was enacted.

#### The Chief Questions

4. The chief questions that have to be examined in our opinion are, firstly, whether the Act has been effective in preventing the evil against which it was directed ; secondly, whether legislation of this character is now necessary for the maintenance of law and order ; and, thirdly, whether, on a comparison of the advantages and disadvantages which the retention of the Act would involve, its continuance is desirable in the public interest. We may say at the outset that on a careful consideration of these points we are of opinion that the Act should be repealed.

5. As to the effectiveness of the Act, it is generally admitted that direct incitements to murder and violent crime, which are specially referred to in Section 4 (1) (a) of the Act, are rarely found in the Press to day. This was not the case in 1910, so far as a certain section of the Press was concerned, and it is the view of at least one local Government that the Press Act has contributed to the elimination of such public incitements. We are not, however, satisfied that the cessation of such incitements is due solely or even mainly to the act or that, in present conditions, the ordinary law is not adequate to deal with such offences. Further it must be admitted that, in so far as the law was directed to prevent the more insidious dissemination of sedition, of general misrepresentation of the action of Government, of exaggerations of comparatively minor incidents, of insinuations of injustice and of articles intended to exacerbate racial feeling, the Act has been of little practical value, for we find that a section of the Press at present is just as hostile to Government as ever it was, and that it preaches doctrines calculated to bring the Government, and also occasionally particular cases or sections of the community, into hatred and contempt, as freely now as before the Act was passed.

Moreover, we believe that the more direct and violent forms of sedition are now disseminated more from the platform and through the agency of itinerary propagandists than by the Press, and no Press law can be effective for the repression of such activities. In our opinion, therefore, it must be admitted that the Act has not been wholly effective in securing the object which it was enacted to achieve. We observe that one witness before us went so far as to say that it had both been futile and irritating.

#### An Emergency Measure.

6. Turning to the question of the necessity for such legislation, we find that it was an emergency measure enacted at a time when

revolutionary conspiracies, the object of which was directly promoted by certain organs of the Press, were so active as to endanger the administration. We believe that this revolutionary party is now quiescent, that the associations supporting it have been broken up, and that many members of the revolutionary party have realized that the object which they had in view can, under present conditions, be achieved by constitutional means. Further the political situation has undergone great changes since 1910, and the necessity for the retention of the Act must be examined in the light of the new constitutional position created by the inauguration of the Reforms.

Many of us feel that the retention of this law is, in these circumstances, not only unnecessary, but incompatible with the increasing association of representatives of the people in the administration of the country. We believe also that the malignant influence of seditious organs of the Press will, in future, be, and in fact is already beginning to be, counteracted by the growth of distinct parties in politics, each supported by its own press supplemented by the activities of a properly organized bureau of information, the value of which was admitted by many witnesses.

It is true the scope of the Act is not limited to the prevention of sedition, but it is not necessary for us to discuss in detail the subsidiary provisions included in Section 4 of the Act, as we believe that these provisions have seldom been used and that the evils against which they are directed can be checked by the ordinary law. We think, therefore, that under present conditions the retention of the Act for the purposes for which it was enacted is unnecessary.

#### Bitter Hostility to the Act.

7. On an examination of the third aspect of the case, *viz.* the comparative advantages and disadvantages of retaining the Act, we find that, while many local Governments advocate its retention in the interests of the administration, on the other hand the Act is regarded with bitter hostility by nearly all shades of Indian opinion. Most of the witnesses examined before us believe it to be indefensible in principle and unjust in its application. It has been said that the terms of Section 4 of the Act are so comprehensive that legitimate criticism of Government might well be brought within its scope, that the Act is very uncertain in its operation, that it has been applied with varying degrees of rigour at different times and by different local Governments, and in particular that it has not been applied with equal severity to English-owned and Indian-owned papers.

A general feeling was also apparent among the witnesses that the Act is irritating and humiliating to Indian journalism, and that

the resentment caused by the measure is the more bitter because of the great services rendered to Government by the Press in the war.

Many witnesses, indeed, are of opinion that the Act is fatal to the growth of a healthy spirit of responsibility in the Press and that it deters persons of ability and independent character from joining the profession of journalism.

Finally it is maintained that the Act places in the hands of the executive Government arbitrary powers not subject to adequate control by any independent tribunal, which may be used to suppress legitimate criticism of Government, and that such a law is entirely inconsistent with the spirit of the Reforms Scheme and the gradual evolution of responsible Government.

#### Repeal Recommended.

8. There is, in our judgment, great force in many of these criticisms. We find, as already noted, that the Act has not proved effective in preventing the dissemination of sedition and that it is doubtful whether it is necessary to retain it for the purpose of preventing incitements to murder and similar violent crimes.

Further, in view of the cogent criticisms made as to the principles and operation of the Act, we have come to the conclusion that it would be in the interests of the administration that it should be repealed. In making this recommendation we have not overlooked the opinion expressed by various local Governments that the retention of the Act is desirable in the interest of law and order. We observe, however, that there is a considerable divergence of opinion among these Governments on this point, and while we realise that the views of those who are opposed to the repeal of the Act are entitled to great weight, and indeed that these views have been accepted by the Government of India frequently in times past, we are satisfied that there is a genuine popular demand for its repeal and we consider that in the altered circumstances created by the Reforms, the advantages likely to be secured by repeal of this measure outweigh the benefits which could be obtained by its retention on the statute book.

9. In our examination of the question of the repeal of the Press Act, we also considered the further question as to which, if any, of its provisions should be retained by incorporation in other laws. Various questions have been placed before us in this connection, some of greater and some of minor importance.

#### Position of Princes.

Perhaps the most important of these is the question whether the dissemination of disaffection against Indian Princes through the Press of British India should be penalized in any way. We have



been handicapped in our examination of this question by very inadequate representation of the views of the Princes, many of whom were unwilling to allow their opinions to be placed before the Committee. We have, however, had the advantage of seeing some minutes submitted by them and of examining Sir John Wood, Secretary of the Political Department. It has been argued that the Govt. of India is under an obligation to protect Indian Princes from such attacks, that the Press Act alone affords them such protection, and that if it is repealed it is unfair, having regard to the constitutional position of the Govt. of India *vis-a-vis* the Indian States, that the Press in British India should be allowed to foment disaffection against the Ruler of an Indian State. On the other hand various witnesses have protested in the strongest terms against any such protection being afforded to Princes. It is alleged that the effect of any such provision in the law would be to stifle all legitimate criticism and deprive the subjects of such States of any opportunity of ventilating their grievances and protesting against mal-administration or oppression. We understood that, before the Press Act became law, it was not found necessary to protect Indian Princes from such attacks and we note that the Act, so far as the evidence before us shows, has only been used on three occasions for this purpose.

We do not, in the circumstances, think that we should be justified in recommending, on general grounds, any enactment, in the Penal Code or elsewhere for the purpose of affording such protection, in the absence of evidence to prove the practical necessity for such a provision of the law. Our colleague, Mir Asad Ali desires to express no opinion on this question.

#### Confiscation of Presses.

10. We have also considered the question of vesting Courts of Justice with power to confiscate a Press if the keeper is convicted for the second time of disseminating seditious. Although Section 517 of the Criminal Procedure Code affords some faint authority for the enactment of such a provision in the law, we feel that it would operate inequitably, particularly in the case of large and valuable presses, used not only for the printing of a particular paper, but also for other miscellaneous work. In the case of smaller presses, the forfeiture of the press would probably not be an effective remedy and on a careful consideration of the facts we doubt the necessity for inserting any such provision in the law.

11. There is, indeed, only one provision of the Act which, we think, should be retained, namely the power to seize and confiscate newspapers, books or other documents, which offend against

the provisions of Section 124-A of the Penal Code. If this power is retained, the auxiliary power of preventing the importation into British India, of transmission through the post, of such documents, on the lines now provided for in Sections 13, 14 and 15 of the Indian Press Act, is a necessary corollary if the law is to be effective,

#### Openly Seditious Documents.

12. The confiscation of openly seditious documents in no way, we believe, constitutes an interference with the reasonable liberty of the Press and the openly seditious character of some of the documents which are now circulated in India has convinced us of the necessity of retaining this power as a regular provision of the substantive law.

The exact method by which this should be effected is, we think, a matter for the expert advisers of the Government of India to decide. We would, however, also provide for redress in cases in which the owner of a press or any person interested in the production of any such document or in the possession of any particular copy of the document consider himself aggrieved, by allowing such persons to apply to the High Court and challenge the seizure and confiscation of the document. We would also provide that when such an application is made the onus of proving the seditious character of the document should be on the Government. We think that the power conferred by sections 13 to 15 of the Press Act might be conveniently incorporated in the Sea Customs Act and Post Office Act, so that the customs and postal officers should be empowered to seize seditious literature within the meaning of Section 124-A of the Indian Penal Code, subject to review on the part of the Government and to challenge, by any person interested in the courts.

We recommend that in this case, and in the case of seditious leaflets seized under the conditions referred to in the earlier portions of this paragraph, the orders of the Government should be liable to be contested in the High Court.

It follows almost of necessity, from what we have said about the Press Act, that we recommend the total repeal of the Newspapers (Incitements to Offences) Act, 1908. We may observe that this Act has not been used for the last 10 years.

#### Registration of Editors.

13. As to the Press and Registration of Books Act, we recommend that this Act should be retained with the following modifications :—

(1) That no person should be registered as a publisher or printer unless he is a major, as defined by the Indian Majority Act.

(2) That in the case of all newspapers, the name of the responsible Editor should be clearly printed on the front sheet of the paper and that an editor should be subject to the same criminal and civil liability in respect of anything contained in the paper as the publisher and printer.

(3) That the term of imprisonment prescribed in Sections 12, 13, 14, 15 should be reduced to six months.

(4) That the provisions of Section 16 of the Press Act should be reproduced in this Act.

We have also considered certain other matters of detail, which are of a technical nature. We think they should be left to expert department to deal with.

### Summary of Conclusions.

14. We append a summary of our conclusions :—

(1) The Press Act should be repealed.

(2) The Newspapers (Incitements to Offences) Act should be repealed.

(3) The Press and Registration of Books Act, the Sea Customs Act and the Post Office Act should be amended, where necessary, to meet the conclusions.

(a) The name of the Editor should be inscribed on every issue of a newspaper and the Editor should be subject to the same liabilities as the Printer and the Publisher as regards criminal and civil responsibility.

(b) Any person registering under the Press and Registration of Books Act should be a major, as defined by the Indian Majority Act.

(c) Local Governments should retain the power of confiscating openly seditious leaflets, subject to the owner of the press, or any other person aggrieved, being able to protest before a court and challenge the seizure of such document, in which case the local Government ordering confiscation should be called upon to prove the seditious character of the document.

(d) The powers conferred by Sections 13 to 15 of the Press Act should be retained, Customs and Postal officers being empowered to seize seditious literature within the meaning of Section 124-A, Indian Penal Code, subject to review on the part of the local Government and challenge by any persons interested in the proper courts.

(e) Any person challenging the orders of the Government should do so in the local High Court.

(f) The term of imprisonment prescribed in Sections 12, 13, 14 and 15 of the Press and Registration of Books Act should be reduced to six months.

(g) The provisions of Section 16 of the Act should be reproduced in the Press and Registration of Books Act.

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## Report of the Repressive Laws Committee

The Repressive Laws Committee was appointed in pursuance of Mr. Sastri's motion in the Council of State "to examine the Repressive Laws now on the Statute Book and report whether all or any of them should be repealed."

In accordance with the instructions contained in Resolution No. 533-Political, dated March 21st, 1921, we have examined the following Regulations and Acts :—

- (1) The Bengal State Offences Regulation, 1804 ;
- (2) Madras Regulation VII of 1898 ;
- (3) Bengal State Prisoners Regulation, 1818 ;
- (4) Madras Regulation II of 1819 ;
- (5) Bombay Regulation XXV of 1827 ;
- (6) The State Prisoners Act, 1850 ;
- (7) The State Offences Act, 1857 ;
- (8) The Forfeiture Act, 1857 ;
- (9) The State Prisoners Act, 1858 ;
- (10) The Indian Criminal Law Amendment Act, 1908 ;
- (11) The Prevention of Seditious Meetings Act, 1911 ;
- (12) The Defence of India (Criminal Law Amendment) Act, 1915 ;
- (13) The Anarchical and Revolutionary Crimes (the infamous Rowlatt) Act, 1919.

2. Appendix A to this report gives the names of the witnesses who were invited to give evidence. We examined at considerable length 24 witnesses, some of whom came from distant provinces at much personal inconvenience. We desire to record our appreciation of their public spirit. We have also considered the opinions of local Governments and some written statements sent by witnesses or by recognised associations. In addition we perused a large amount of documentary evidence in the shape of reports of disturbances, confidential reports on the political situation, speeches delivered at public meetings, debates in the Legislative Council when the Acts under consideration were introduced, and correspondence with local Governments regarding the exercise of powers under these Acts and the proceedings of the previous Committees, including the Sedition Committee.

3. The reports from local Governments show that recourse was taken to these 'repressive' or 'preventive' enactments only in cases of emergency, or to deal with exceptional disorder for which

the ordinary law did not provide any adequate remedy. It is also proved that the Government of India have scrutinized with the greatest care all requests for either the introduction of the Seditious Meetings Act or action under the Defence of India Act or the Indian Criminal Law Amendment Act, 1908. During the war the maintenance of internal peace was a supreme consideration and early preventive action was essential.

The first question then that we have to decide is whether with the conclusion of the war and the introduction of constitutional changes in the Government of India, there has been such an improvement in the general situation as to justify the repeal of all or any of these measures. We have particularly to consider whether there exists such an anarchical movement as prevailed in Bengal during the last decade, or any probability of a recrudescence of a movement, which at that time seriously disturbed the tranquillity of certain parts of India. On this point a certain amount of plain speaking is unavoidable.

4. The evidence of many witnesses indicates that the constitutional reforms have produced a distinct change for the better in the attitude towards Government of the larger portion of the literate or 'politically minded' classes. As regards the illiterate masses, the position is much less satisfactory. It must be recognised that recent appeals to racial feeling, religious prejudice or economic discontent have in fact shaken respect for law, government and authority, and "created an atmosphere of preparedness for violence." Intimidation, social boycott and the establishment of courts, the jurisdiction of which is in some cases enforced by violence and insult, are among the methods employed to create a situation full of dangerous potentialities. Similarly, while many witnesses expressed the view that the general position had improved and that the cult of non-co-operation had generally failed to appeal to more thoughtful persons, we are forced to the conclusion that the leaders of this movement have succeeded in arousing a deep and widespread feeling of hostility towards Government. It is however as yet more marked in urban than in rural areas. The large number of serious riots during the past seven months cannot be regarded merely as passing ebullitions of temporary discontent. The disturbances in places so widely apart as Rae Bareilly, Malegaon, Nagpur, Giridih, Dharwar, Aligarh and Matiarri indicate a growing contempt for law and order. We have no doubt that economic and agrarian discontent has been exploited by agitators, and that these riots have in many cases disclosed a disregard of authority or an attempt to intimidate the courts or officers carrying out the orders of the courts, which justifies us in ascribing them to an active and malicious

propaganda. In attempting any survey of the present political situation we cannot leave out of account further dangerous developments adumbrated by leaders of the Extreme party. To illustrate this point we cite some extracts from recent speeches :—

(1) "Mahatma Gandhi says that if you are determined SWARAJ can be attained within one year. The machinery of the Government is entirely in your hands. \* \* \* \*. At first we will request the military and the police to throw up their services with the Government. If this request is rejected the public will be asked to refuse to pay taxes and then you will see how the machinery will work. We do not recognise the authorities of the present Government and refusal to pay taxes will settle everything. This can only be achieved by unity. Now it rests with you whether you will sit under the SATANIC flag or will come under the flag of God. The day will come when the sweepers, washer-men and others will be asked to boycott those who are on the side of SATAN."

(2) "I believe that the struggle with Government will commence when we withhold payment of taxes. In that case Government will come to its senses. I require students these days. Some are required for (work among the) tenantry. When they will refuse to pay taxes and Government will issue warrants and send its sepoy, the peasants will boldly defy its order and will say "Kill us or put our property to auction, but we would not pay taxes with our hands."

(3) We may also quote an extract from an article in "Young India" by Mr. M. K. Gandhi :—

"Civil Disobedience was on the lips of every one of the members of the All-India Congress Committee. Not having really ever tried it, every one appeared to be enamoured of it from a mistaken belief in it as a sovereign remedy for our present-day ills. I feel sure that it can be made such if we can produce the necessary atmosphere for it. For individuals there always is that atmosphere except when their Civil Disobedience is certain to lead to bloodshed. I discovered this exception during the SATYAGRAHA days. But even so a call may come which one dare not neglect, cost it what it may. I can clearly see the time coming to me when I MUST refuse obedience to every single State-made law, EVEN THOUGH THERE MAY BE A CERTAINTY OF BLOODSHED. When neglect of the call means a denial of God, Civil Disobedience becomes a peremptory duty."

(4) The following are Resolutions passed by the All-India Congress Committee of Bombay :—

(I) "The All-India Congress Committee advises that all persons belonging to the Congress shall discard the use of foreign cloth as from the 1st day of August next and advises all Congress organisations \* \* \* to collect foreign cloth from consumers for destruction or use outside India at their option."

(II) "It is of opinion that Civil Disobedience should be postponed till after the completion of the programme referred to in the Resolution on SWADESHI after which the Committee will not hesitate, if necessary, to recommend a course of Civil Disobedience even though it might have to be adopted by a special Session of the Congress. Provided however it is open to any Province or place to adopt Civil Disobedience subject to the previous approval of the Working Committee obtained within the Constitution, through the Provincial Congress Committees concerned."

Witnesses unanimously agreed that Civil Disobedience, particularly if it took the form of a "no-revenue" or "no-rent" campaign,



would result in wide-spread disorder, and that a boycott, whether of foreign goods or of liquor, if accompanied by intimidation, might result in violence. The boycott of foreign cloth would also tend to raise prices, and the consequent economic distress would end in "hat looting" such as has occurred in the past.

5. In the light of the evidence before us it is therefore impossible to describe the state of affairs to-day as normal. Nor is India singular in this respect: the reaction from the war is world-wide and no country has escaped its effects. There are however grounds for hoping that an improvement has begun: there are signs of a gradual adjustment to *post bellum* conditions: a favourable monsoon would do much to remove economic discontent: the relations between Government officials and the public, between the Ministers and officers serving under them are admittedly undergoing successful readjustment: finally, the response made to the opportunities offered by the Reformed Councils, no less the attitude of the Executive and the Legislators of mutual co-operation is encouraging. But as militating against this improvement there is an active widespread campaign which, if judged by recent utterances, is certain to increase economic difficulties and to promote disaffection.

6. We have carefully scrutinised the evidence dealing with the *Khilafat* movement. With its religious aspect the Committee is in no way concerned: indeed we fully sympathise with the desire for favourable peace terms for Turkey, but it is our duty to examine closely the activities of the extremist leaders of this movement and the methods by which they seek to attain their aims. We are informed that any real appreciation of the difficulties of the situation is confined to a small class, but it cannot be denied that the terms of the Turkish peace treaty have been used to cause a dangerously bitter feeling amongst the masses, and that religious enthusiasm exploited by unscrupulous agitators has in many places developed into fanatical hostility to the British Government. Thus, despite frequent contradiction, the lie that holy places have been desecrated is still repeated. We cite below extracts from reports of speeches submitted to us.

(1) At Karachi a Hindu 'Ecclesiastical' supporter advised "sympathy with their Moslem brothers because the power that had caught hold of the Muslim holy places would not spare those of the Hindus."

(2) Or again, "The British had caused Hindu and Muhammadan brothers to fight and have thus made straight their own road. They had destroyed Mecca and Medina. Shots had even fallen on the Prophet's remains. All Muhammadans who had fought against the Turks should be divorced."

(3) "Referring to the fight in Mecca he said that the Sheriff was the master of the place. There were only 30 or 35 Turkish soldiers. When the British Army reached Mecca they killed 3 of the Turkish soldiers who were found marketing. Two others, who took shelter in the KAABA (the only temple).

where not a tiger nor even a fly was allowed to be killed according to religion, were slaughtered by the British soldiers. Moreover the holy carpet of the KAABA which was prepared by the hands of the innocent little girls was burnt by the fire of the British shells."

(4) The following extract refers apparently to the Kheri murder case :—

"I am going to pronounce the order of God that if the slayer of a heathen is killed, he will certainly become a martyr. If he dies it is your duty to pray for him.

"One Englishman has died here ; lakhs of Hindus and Mussalmans have been martyred there—

"If after lakhs of Mussalmans have been martyred in Smyrna, somebody has killed Christians, Christians have retaliated entering Constantinople. If he has committed the murder for the sake of religion and he is slain he will attain martyrdom. Heavens await him and the HOWRIES are standing (to welcome him) with cups in their hands."

7. It was, we were told by a frontier officer, statement of this kind, particularly relating to the defilement of holy places, which has created such bitterness and led to the Hijrat from Upper Sindh and Peshawar with such disastrous consequences. Instances of gross misrepresentation are numerous. Nor does it end here. Perhaps the most sinister feature in this campaign of calumny is the direct attempt to seduce the military and the police force from their allegiance. Evidence has been adduced of many specified instances of such attempts, which the military authorities regard as most dangerous. Speeches have also been reported :—

(1) "Tell every Muhammadan clearly that it is his religious duty to avoid being recruited for the army. Do not give a single soldier that he may behead his brother with his own hands."

(2) "Your religion is calling for help, but you do not lay down your life for God ; you join the army or police on fourteen rupees a month. You say you are a Government servant, but you are God's servant."

8. We have also had placed before us reports of many speeches made by various leaders of the movement which can only be considered as direct incitements to disloyalty and violence. The following are instances :—

(1) "If the Amir of Kabul does not enslave India and does not want to subjugate the people of India who have never done any harm and who do not mean to do the slightest harm to the people of Afghanistan or elsewhere, but if he comes to fight against those who have always had an eye on his country, who wanted to subjugate his people, who hold the Holy Places of Islam, who want to crush Islam in their hostile grip, who want to destroy the Muslim faith and were bent on destroying the KHILAFAT, then not only shall we not assist, but it will be our duty and the duty of every one who calls himself a Mussalman to gird up his loins and fight the good fight of Islam.

(2) "When we have to kill all Englishmen we will not come stealthily, we will, that very day, declare openly that there is (war with) the sword between you and us now and it will be sheathed only when either your neck disappears or ours.

(3) "The object of my speaking so plainly is to secure you that in the question of KHILAFAT we have not gone an inch against the doctrines of Islam. In my religion, to die and to kill in the cause of God are both good deeds.

(4) "He told his audience that their time had at last come. Everything was ready for JEHAD and the signal was about to be given. He exhorted to them to be bold and steadfast. The weapons of the British soldiers and sepoys could not harm them for he had the power to render them innocuous. This time there was little talk of non-co-operation. The business for the moment was war.

(5) "If you do not come forward, God shall raise another nation for Islam's defence. Those who wage the war of JEHAD will not mind any remonstrances. . . . SWARAJ is a religious obligation with me. I am doing my work for the sake of the holy KAABA, Medina and the Qoran. It is better to be slaves of Muhammadans than of the English. It is our duty to help the Amir if he comes to carry on JEHAD. I am prepared to fight the battle of Independence whether my Muhammadan brothers help me or not.

9. These quotations could be multiplied. We notice also repeated statements casting on England, and not on the Allies, the whole responsibility for the terms of the Treaty of Sevres or for any delay in amendment. After a careful perusal of these and other similar utterances, and making every allowance for inaccurate reporting, we have no hesitation in holding that this form of propaganda is directly calculated, when addressed to an impressionable and excitable audience, to lead to violence.

10. We endeavoured to ascertain the effect of this combined movements (the Non-co-operation and the Khilafat) on the student community, and have received valuable evidence from educational authorities. The situation was at one time disquieting. Direct appeals were issued of which we give one example :—

"Those who read the newspapers know the part taken by the students in all countries in these days. The first example was set by the students of Russia at the time of revolution. They took great part therein and you know the result. In China also the students agitated and the courses of the universities were changed according to their wishes. Look at the condition of Egypt and the work done there by the students! They have obtained the religious form of instruction. They have agitated for years and in the long run they have been successful in their revolution. Both boys and girls took share in the revolution. Our only hope of spreading agitation is by means of the students who are always enthusiastic."

Evidence shows that the mischievous results of this appeal to students were short-lived. Our general impression is that the student community at large has not been permanently or seriously affected, save in the way of sentimental sympathy for the non-co-operation movement and the personality of its leader. The 'national' institutions have obtained meagre support whether in the shape of funds or pupils. Several have now been closed. There was at first some response in the form of strikes, but the large majority of students returned. The result of the University Examinations, and the number of entries shew that there has been no appreciable falling-off in the number of admissions or of candidates.

It is noticeable that the effects varied in different institutions,

which we attribute to the influence or lack of influence of the Principal and Professors. We are however convinced that as in the case of the public generally, so with the students there is less respect for authority than there was before. Nor can we overlook the fact that there is a small residue of misguided boys who, by forsaking their studies, have not only imperilled their future career but would seem to have elected that of the professional agitator. We have dwelt upon this aspect of the situation in view of the unhappy activities of the student community of Bengal ten years ago.

11. Taking into consideration all the evidence we have adverted, and bearing in mind the still prevailing economic discontent, we cannot dismiss as improbable the possibility of sudden labour, agrarian or sectarian disorder on a large scale probably culminating in riots.

12. We may now in the light of this appreciation of the present political position examine the question of repealing or retaining the various Acts under consideration. Dealing with the older Acts first, we notice that they relate generally to an unsettled condition of affairs which no longer exists. We regard it as undesirable that they should be used for any purpose not contemplated by their authors. The objections to them are obvious. Some, as for example, Bengal Regulation 10 of 1804, or the Forfeiture Act of 1857, are inconsistent with modern ideas; others are clothed in somewhat archaic language and are applicable only to circumstances which are unlikely to recur. Many arm the executive with special powers which are not subject to revision by any judicial tribunal. Their presence on the Statute Book is regarded as an offence by enlightened public opinion. The arguments for their retention are as follows. The use of the Bengal State Prisoners' Regulation, 1818 (Regulations III of 1818) in Bengal was necessitated by the revolutionary movement which the ordinary law failed to check. The wholesale intimidation of witnesses rendered recourse to the ordinary courts ineffective. Though we have evidence of a change in the attitude of individual leaders of the anarchical movement in Bengal, we are warned that similar symptoms of intimidation have been noticed, and that, should there be a recrudescence of any revolutionary movement, it would, in the absence of these old preventive Regulations be impossible to cope with the situation, and fresh emergency legislation would be necessary. Lastly, the plea is advanced that these old Acts may be regarded as measures intermediate between the ordinary law of the land and martial law, the ultimate result in case of extreme disorder. The abolition of these special laws, it is suggested, may mean earlier recourse to martial law than might otherwise be the case.

13. We recognise the force of these arguments, in particular the difficulty of securing evidence or of preventing the intimidation of witnesses. We also appreciate the fact that the use of the ordinary law may in some cases advertise the very evil which the trial is designed to punish. But we consider that in the modern conditions of India that risk must be run. It is undesirable that any Status should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the Legislatures. The harm created by the retention of arbitrary powers of imprisonment by the Executive may, as history has shewn, be greater even than the evil which such powers are directed to remedy. The retention of these Acts could in any case only be defended if it was proved that they were in present circumstances essential to the maintenance of law and order. As it has not been found necessary to resort in the past to these measures save in cases of grave emergency, we advocate their immediate repeal. In the event of a recurrence of any such emergency we think that the Government must rely on the Legislature to arm them with the weapons necessary to cope with the situation.

14. Our recommendation in regard to Regulation III of 1818 and the analogous Regulations in the Bombay and Madras Presidencies is subject, however, to the following reservations. It has been pointed out to us that, for the protection of the frontiers of India and the fulfilment of the responsibilities of the Government of India in relation to Indian States, there must be some enactment to arm the Executive with powers to restrict the movements and activities of certain persons who, though not coming within the scope of any criminal law, have to be put under some measure of restraint. Cases in point are exiles from Foreign or Protected States who are liable to become the instigators or focus of intrigues against such States: persons disturbing the tranquillity of such States who cannot suitably be tried in the Courts of the States concerned and may not be amenable to the jurisdiction of British Courts: and persons tampering with the inflammable material on our frontiers. We are in fact satisfied of the continued necessity for providing for the original object of this Regulation, in so far as it was expressly declared to be "the due maintenance of the alliances formed by the British Government with the Foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British Dominions from foreign hostility," and in so far as the inflammable frontier is concerned from "internal commotion."

We desire to make it clear that the restrictions which we contemplate in this connection are not of a penal or even irksome

character. We are satisfied that they have not been so, in cases of the kind referred to above, in the past. Indeed, in several instances they have been imposed as much in the interests of the persons concerned as in the interests of the State. The only desideratum is to remove such persons from places where they are potential sources of trouble. Within such limits as may be necessary to achieve this object they would ordinarily enjoy full personal liberty and a freedom from any kind of stigma such as would be associated with restrictions imposed by criminal law. We therefore think that the retention of Regulation III of 1818, limited in its application to the objects outlined above, would be unobjectionable.

This reservation may also involve the retention in a modified form of the State Prisoner's Acts of 1850 and 1858, but this is a matter for legal experts. We have carefully considered the cases in which the Madras State Prisoners' Regulation of 1819 has been used. The procedure adopted was certainly simpler and more effective, but if the ordinary law is insufficient, we think it is for the Local Government to consider whether any amendment of the Mappila Outrages Act XX of 1859 is needed.

15. Turning now to the more modern Acts, we notice that the Defence of India (Criminal Law Amendment) Act, 1915, will in the ordinary course of events shortly expire. It is, we understand, at present only used in order to give effect to the Government of India's policy in the matter of colonial emigration. Section 16-B of the Defence of India (consolidated) Rules, 1915, is at present employed to prevent the departure from India of unskilled labour, which does not come within the definition of 'emigration' given in Act XVII of 1908.

A special regulation may, we think, also be needed for the exclusion of persons whose presence may endanger the peace and safety of the North West Frontier Province. We understand that a Bill to meet the case of Indian Emigrants has already been introduced. We recommend that the Defence of India Act be repealed at once, as it was only intended to cope with difficulties arising from the war.

16. The Anarchical and Revolutionary Crimes Act, 1919, has never been used. Its enactment was extremely unpopular; it was to continue in force only for three years from the termination of the war. We consider that the retention of this Act is not necessary or advisable. The power to restrain personal liberty without trial conferred by this Act is not consistent with the policy inaugurated with the recent constitutional changes, and we therefore recommend its immediate repeal. It is however necessary to strike a note of warning. This Act was passed on the report of a Committee 3 years ago, which recognised the need for special legislation, both preven-