

market permits we should like to see the municipal practice of borrowing for unproductive public purposes with a sinking fund extended to provincial Governments.

212. These measures will give provincial Governments the liberty of financial action which is indispensable; but the provinces must also be secured against any unnecessary interference by the Government of India in the spheres of legislative and administrative business. It is our intention to reserve to the Government of India a general overriding power of legislation for the discharge of all functions which it will have to perform. It should be enabled under this power to intervene in any province for the protection and enforcement of the interests for which it is responsible; to legislate on any provincial matter in respect of which uniformity of legislation is desirable either for the whole of India or for any two or more provinces; and to pass legislation which may be adopted either *simpliciter* or with modifications by any province which may wish to make use of it. We think that the Government of India must be the sole judge of the propriety of any legislation which it may undertake under any one of these categories, and that its competence so to legislate should not be open to challenge in the courts. Subject to these reservations we intend that within the field which may be marked off for provincial legislative control the sole legislative power shall rest with the provincial legislatures. The precise method by which this should be effected is a matter to be considered when the necessary statute is drafted, and we reserve our final opinion upon it. There are advantages in a statutory demarcation of powers such as is found in some federal constitutions, but we feel that if this is to leave the validity of acts to be challenged in the courts on the ground of their being in excess of the powers of the particular legislature by which they are passed, we should be subjecting every Government in the country to an almost intolerable harassment. Moreover, in India where the central Government must retain large responsibilities, as for defence and law and order, a statutory limitation upon its legislative functions may be inexpedient. We have already referred to the fact that there has been growing up in India for some time a convention which by now has acquired no little strength to the effect that the central Government shall not without strong reason legislate in the internal affairs of provinces. We think therefore that it may be better, instead of attempting to bar the legislative power of the Government of India in certain spheres of provincial business, to leave it to be settled as a matter of constitutional practice that the central Government will not interfere in provincial matters unless the interests for which it is itself responsible are directly affected.

213. The question of restraining the central Government from administrative interference in the provinces is more difficult. We recognize that, in so far as the provincial Governments of the future will still remain

partly bureaucratic in character, there can be no logical reason for relaxing the control of superior official authority over them nor indeed would any general relaxation be approved by Indian opinion; and that in this respect the utmost that can be justified is such modification of present methods of control as aims at getting rid of interference in minor matters, which might very well be left to the decision of the authority which is most closely acquainted with the facts. It is, however, in relation to provincial Governments in their popular aspect that serious difficulties present themselves. So long as the Government of India itself is predominantly official in character and, therefore, remains amenable to the Secretary of State, its interference in any matters normally falling within the range of popular bodies in the provinces involves a clash of principle which cannot fail to engender some heat, and the scope of which it is on all grounds desirable to keep within very closely defined bounds. At the same time we perceive that there are many matters which, taken in bulk, may reasonably be regarded as fitted for administration by popular bodies, but which have aspects that cannot fail to be of intimate concern to the Government which is responsible for the security or good administration of the whole country. We shall have occasion to return to this point when we have stated our proposals for the demarcation of responsibility for the administration.

PROVINCIAL EXECUTIVES.

214. Let us now explain how we contemplate in future that the executive Governments of the provinces shall be constituted. As we have seen, three provinces are now governed by a Governor and an Executive Council of three members, of whom one is in practice an Indian and two are usually appointed from the Indian Civil Service, although the law says only that they must be qualified by twelve years' service under the Crown in India. One province, Bihar and Orissa, is administered by a lieutenant-governor with a council of three constituted in the same way. The remaining five provinces, that is to say, the three lieutenant-governorships of the United Provinces, the Punjab, and Burma, and the two chief commissionerships of the Central Provinces and Assam are under the administration of a single official head. We find throughout India a very general desire for the extension of council government. There is a belief that when the administration centres in a single man the pressure of work inevitably results in some matters of importance being disposed of in his name, but without personal reference to him, by secretaries to Government. There is also a feeling that collective decisions, which are the result of bringing together different points of view, are more likely to be judicious and well-weighed than those of a single mind. But, above all, council government is valued by Indians, because of the opportunity it affords for taking an Indian element into the administration itself. To our minds, however, there is an overriding reason of

greater importance than any of these. The retention of the administration of a province in the hands of a single man precludes the possibility of giving it a responsible character. Our first proposition, therefore, is that in all these provinces single-headed administration must cease and be replaced by collective administration.

215. In determining the structure of the executive we have to bear in mind the duties with which it will be charged. We start with the two postulates that complete responsibility for the government cannot be given immediately without inviting a breakdown, and that some responsibility must be given at once if our scheme is to have any value. We have defined responsibility as consisting primarily in amenability to constituents and, in the second place, in amenability to an assembly. We do not believe that there is any way of satisfying these governing conditions other than by making a division of the functions of the provincial Government between those which may be made over to popular control and those which for the present must remain in official hands. The principles and methods of such division, and also the difficulties which it presents, we shall discuss hereafter. For the moment let us assume that such division has been made, and that certain heads of business are retained under official, and certain others made over to popular, control. We may call these the 'reserved' and 'transferred' subjects, respectively. It then follows that for the management of each of these two categories there must be some form of executive body, with a legislative organ in harmony with it, and if friction and disunion are to be avoided it is also highly desirable that the two parts of the executive should be harmonized. We have considered the various means open to us of satisfying these exacting requirements.

216. In the first place we set aside the idea of establishing two different executives each working in conjunction with a separate legislature of its own. Dualism set aside. That plan seemed to us only to enhance the division between the two elements in the Government which it should be our object by every possible means to minimize. Such complete dualism in executive and legislature must lead to hopeless friction. One Government would be regarded as official, and one as Indian; and no great provision is needed to see how differences must ensue over the division of financial resources and other matters. Assuming therefore that the machine of government must as far as possible be single, and not dual, both in its legislative and executive aspects, we examined the alternative ways in which it appeared open to us to construct the executive.

217. One plan which we considered was that in all provinces there should be set up councils consisting of four members, of whom two would be qualified, as now, by service under the Crown in India, while for two no such qualification would be required. In practice the composition of

the councils would be two European officials and two Indians. Our further intention was, after subjecting an official executive so composed for a period of years to the influence of a legislative council constituted with an elected majority and associated with the administration by means of elected standing committees attached to the departments, to replace the two Indian members of the executive council by ministers appointed from, and accountable to, the legislative councils. During this period, which would be essentially one of training, some members of the legislative councils would have acquired some practical acquaintance with the art of administration through the standing committees, but there would be no formal distribution of business, so far as administration was concerned, into transferred and reserved subjects; though in dealing with the transferred subjects the Government would as far as possible endeavour to give effect to the wishes of the legislative councils. The executive in such a scheme, finding itself face to face with an elected majority which might withhold essential legislation or supplies, would have had to be armed with power to make good in the last resort its purposes in respect of reserved subjects. We do not think that such a scheme would have been unfavourably received in India. But further consideration showed that it was open to grave defects. So long as the Indian members of the executive were not appointed from the elected members of the legislative council they would have had no responsibility to the legislature. But if this defect were cured by appointing them from the legislative council we should have formed a Government all the members of which were equally responsible for all subjects but were, though to a lesser extent than in the Congress-League scheme, accountable to different authorities. If, on the other hand, we delayed this step until the training period was over, we should have encouraged the elected members of council in the habits of irresponsible criticism which have been the bane of the Morley-Minto councils, and from which it is our aim to escape. Then when ministers responsible to the legislative council were brought into being it would have been necessary, in pursuance of our principles, to place them in charge of the transferred subjects. But either the ministers would still have continued to share with the executive council responsibility for even the reserved subjects, or else they would have relinquished such joint responsibility and confined themselves exclusively to the transferred subjects. The former alternative is objectionable because it would make the ministers, who are responsible to the electorates, accountable to them not only for transferred subjects, for which responsibility is intended, but also for reserved subjects, over which popular control is not at present intended to operate. In the second place, it is objectionable because the responsibility for the reserved subjects would be shared by members of the executive council responsible to the Secretary of State with ministers responsible to electorates. The latter alternative is open to the criticism that it deprives the Indian element in the Government of such voice in the reserved subjects as they had previously enjoyed.

218. We propose therefore that in each province the executive

Government should consist of two parts.
Our own proposals.

One part would comprise the head of the province and an executive council of two members. In all provinces the head of the Government would be known as Governor, though this common designation would not imply any equality of emoluments or status, both of which would continue to be regulated by the existing distinctions, which seem to us generally suitable. One of the two executive councillors would in practice be a European, qualified by long official experience, and the other would be an Indian. It has been urged that the latter should be an elected member of the provincial legislative council. It is unreasonable that choice should be so limited. It should be open to the Governor to recommend whom he wishes. In making his nominations the Governor should be free to take into consideration the names of persons who had won distinction, whether in the legislative council or any other field. The Governor in Council would have charge of the reserved subjects. The other part of the Government would consist of one member, or more than one member, according to the number and importance of the transferred subjects, chosen by the Governor from the elected members of the legislative council. They would be known as ministers. They would be members of the executive Government, but not members of the executive council; and they would be appointed for the lifetime of the legislative council and if re-elected to that body would be re-eligible for appointment as members of the executive. As we have said, they would not hold office at the will of the legislature, but at that of their constituents. We make no recommendation in regard to pay. This is a matter which may be disposed of subsequently.

219. The portfolios dealing with the transferred subjects would

Relation of the Governor to ministers.

be committed to the ministers, and on these subjects the ministers together with the Governor would form the administration. On such subjects their decisions would be final, subject only to the Governor's advice and control. We do not contemplate that from the outset the Governor should occupy the position of a purely constitutional Governor who is bound to accept the decisions of his ministers. Our hope and intention is that the ministers will gladly avail themselves of the Governor's trained advice upon administrative questions, while on his part he will be willing to meet their wishes to the furthest possible extent in cases where he realizes that they have the support of popular opinion. We reserve to him a power of control, because we regard him as generally responsible for his administration, but we should expect him to refuse assent to the proposals of his ministers only when the consequences of acquiescence would clearly be serious. Also we do not think that he should accept without hesitation and discussion proposals which are clearly seen to be the result of inexperience. But we do not intend that he should be in a position to refuse assent at discretion to all his ministers' proposals. We recommend that for the guid

ance of Governors in relation to their ministers, and indeed on other matters also, an Instrument of Instructions be issued to them on appointment by the Secretary of State in Council.

220. There is another provision which we wish to make. The Governor may be himself unfamiliar with Indian conditions; and his Government, constituted as we have proposed, will contain only one European member. He will thus normally have only one member with official experience. In some provinces where the Governor is himself an official and thoroughly familiar with the requirements of the province, the advice and assistance of one official colleague may suffice. But in other cases this will not be so. We propose, therefore, that the Governor should appoint, if he chooses, one or two additional members of his Government, as members without portfolio, for purposes of consultation and advice. It is true that it is always open to the Governor to seek the advice of any of his officials; but that is not the same thing as appointing them to be members of the Government with the status and authority attaching to such office. The additional members would still discharge the functions of, and draw the pay attached to, their substantive appointments.

221. It is our intention that the Government thus composed and Working of the executive. with this distribution of functions shall discharge them as one Government. It is highly desirable that the executive should cultivate the habit of associated deliberation and essential that it should present a united front to the outside. We would therefore suggest that, as a general rule, it should deliberate as a whole, but there must certainly be occasions upon which the Governor will prefer to discuss a particular question with that part of his Government, directly responsible. It would therefore rest with him to decide whether to call a meeting of his whole Government, or of either part of it, though he would doubtless pay special attention to the advice of the particular member or minister in charge of the subjects under discussion. The actual decision on a transferred subject would be taken, after general discussion, by the Governor and his ministers; the action to be taken on a reserved subject would be taken, after similar discussion, by the Governor and the other members of his executive council, who would arrive at their decision in the manner provided in the existing statute. The additional members, if present, would take their share in the discussion, but would in no case take a part in the decision. At a meeting of the whole Government there would never be, in fact, any question of voting, for the decision would be left, as we have stated, to that part of the Government responsible for the particular subject involved. But there are questions upon which the functions of the two portions of the Government will touch or overlap, such, for instance, as decisions on the budget or on many matters of administration. On these questions, in case of a difference of opinion between the ministers and the executive council, it will be the Governor who decides.

222. Let us now see the advantages of this transitional arrangement and anticipate criticisms. It has been urged with great force that, at the outset, if **Advantages and disadvantages of this plan.** would be unfair to entrust the responsibility for the administration of any subject to men holding office at the will of the legislative council. The legislative council has had no experience of the power of dismissing ministers, or the results attending the exercise of such power. Nobody in India is yet familiar with the obligations imposed by tenure of office at the will of a representative assembly. It is only by actual experience that these lessons can be learned. But our scheme provides security of tenure for ministers for the lifetime of the council during the preliminary period, and therefore gives some time, which we think should be short, to prepare for the full exercise of responsibility. By the device, however, of appointing the ministers from the elected members of the legislative council and making their tenure of office conditional on the retention of their seats we have established at once some measure of responsibility, in the form of responsibility to their constituents, and have thus put an end to the condition of affairs in which those entrusted with the administration are wholly irresponsible to the constituents who elect the legislative council. By dividing the Government into what will in effect be two committees with different responsibilities we have ensured that members of the Government accountable to different authorities do not exercise the same responsibility for all subjects. By entrusting the transferred portfolios to the ministers we have limited responsibility to the Indian electorate to those subjects in which we desire to give responsibility first. We have done this without now, or at any time, depriving the Indian element in the Government of responsibility for the reserved subjects. The fact that we are entrusting some functions of Government to ministers makes it impossible for us to contemplate the retention in any province of an executive council of more than two members; but the reduction of the European element in the council may be regarded as equivalent to an increase in the Indian element. At the same time, by the appointment of the additional members of the Government we have secured that the Governor shall have at his disposal ample official advice. The arrangement admits of adjustment to the different provinces, because we contemplate that the number of transferred subjects, and therefore the number of ministers, may vary in each province. It is quite true that our plan involves some weakening of the unity of the executive and some departure from constitutional orthodoxy; but whenever and wherever we approach this problem of realizing responsibility at different times in different functions we find it impossible to adhere tightly to theoretical principles. It would be impossible to attain our object by a composite Government so composed that all its members should be equally responsible for all subjects. At the same time, it is necessary to secure that the whole executive should be capable of acting together. What we can do is to aim at minimizing causes of friction; and we have proposed arrangements that can be worked by mutual forbearance

and a strong common purpose. It is our intention that the decisions of the Government should be loyally defended by the entire Government, but that the ministers should feel responsibility for conforming to the wishes of their constituents. It is true that these two forces may pull different ways; but, though the analogy is clearly not complete, there are occasions when members of a Government, and indeed members of Parliament at Home, have to choose between loyalty to the Government and to their own constituents. All the members of the composite executive will be chosen by the Governor, and his position in the administration will enable him to act as a strong unifying force. The habit of deliberating as a whole will also tend to preserve the unity of the Government, while the special responsibility of either part for the subjects committed to it will be recognized by the legislative council and the electorate. It seems to us, therefore, that, both from the point of view of capacity for development and from that of ensuring co-operation while developing responsibility, our arrangement is the best that can be devised for the transitional period.

223. Our proposals may strike some critics as complicated. But few constitutions, except those of a purely despotic character, can be described without some appearance of complication; and the course which we have deliberately chosen, and which is in its nature experimental and transitional, is relatively elaborate because it involves the temporary co-ordination of two different principles of government. If we had proposed to delay the concession of any responsibility at all until such time as we could give complete responsibility our scheme certainly would have had the minor merit of simplicity. But apart from our obligation to comply with the announcement of August 20, we feel that such a course would have subjected the mechanism of government, when the change from irresponsibility to complete responsibility came, to so violent a shock that it might well have broken down. We were driven therefore first to devising some dualism in the executive; and secondly to providing for such a balance of power between the two portions as would permit the one portion to grow without at the same time disabling the other from discharging its very necessary functions of preserving continuity and safeguarding essentials. Given such difficult conditions, we do not think that a less elaborate solution can readily be devised.

224. The suggestion has been made to us that in some provinces it might be convenient, where the press of work is heavy, to appoint some members of the legislative council, not necessarily elected, to positions analogous to that of a parliamentary under-secretary in Great Britain, for the purpose of assisting the members of the executive in their departmental duties and of representing them in the legislative council. We feel no doubt that the elaboration of the machinery which is inevitable in future will impose greater burdens on the members of the Government. We suggest therefore that it may be advisable and convenient to take power to make such appointments.

PROVINCIAL LEGISLATURES.

225. We will now explain how we intend that the provincial legislatures of the future shall be constituted. We propose there shall be in each province an enlarged legislative council, differing in size and composition from province to province, with a substantial elected majority, elected by direct election on a broad franchise, with such communal and special representation as may be necessary. This brief epitome of our proposals needs some amplification if it is to be intelligible. We have been invited by many advisers to indicate at once the composition of the councils which we contemplate. We have refrained from that task for good and sufficient reasons. It would be easy to make proposals, but in the present state of our information it would be very difficult to invest those proposals with authority. If a sound beginning is to be made the foundations for the building must be laid deeper. The first step must be not a hard-and-fast adjustment of the composition of the councils to the various interests of each province as estimated from headquarters, but a careful survey of all the material available in the province for an electorate. We must, in fact, measure the number of persons who can in the different parts of the country be reasonably entrusted with the duties of citizenship. We must ascertain what sort of franchise will be suited to local conditions, and how interests that may be unable to find adequate representation in such constituencies are to be represented. Such an electoral survey of the entire country is obviously beyond our powers at the present time. We propose that the work should be undertaken by a special committee, which should be appointed to deal with it as soon as possible; for whatever modifications of our own proposals may be decided upon in further discussion it seems to us certain that work of this particular nature must in any case be done. We suggest that the committee should consist of a chairman, chosen from outside India, two experienced officials, and two Indians of high standing and repute. In each province the material for its deliberations would, of course, be prepared for it by the local Government; indeed in some spade-work has already been done. As the committee visited each province in turn one civilian officer and one Indian, appointed by the provincial Government, should join it and share in its labours. The committee's investigations into the subjects of the franchise, the constituencies, and the nominated element, to which we refer below, will enable it to advise as to the composition of the councils, which, we propose, should then be determined by the Secretary of State in Council, on the recommendation of the Government of India, in the form of regulations to be laid before Parliament. We think this is certainly a better method than to formulate such matters in the statute itself. All this electoral architecture must inevitably be experimental and will need modification and development from time to time.

226. While, however, we refrain from any discussion of details for which the material is not immediately available there are certain broad questions upon which we certainly ought to indicate our conclusions, both because the issues are themselves important and because the committee will need general instructions on points of principle. We consider in the first place that the system of indirect elections should be swept away. It is one main cause of the unreality that characterizes the existing councils, because it effectively prevents the representative from feeling that he stands in any genuine relation to the original voter. Secondly, we consider that the limitations of the franchise, which it is obviously desirable to make as broad as possible, should be determined rather with reference to practical difficulties than to any *a priori* considerations as to the degree of education or amount of income which may be held to constitute a qualification. It is possible that owing to unequal distribution of population and wealth it may be necessary to differentiate the qualifications for a vote not merely between provinces, but between different parts of the same province. It is essential to take due account of the problems involved in the maintenance of an electoral roll, the attendance of voters at a polling centre, the danger of impersonation, and the subsequent adjudication of electoral petitions. On these considerations the strength of the official and non-official agency which could be made available for electoral purposes throughout the country has an important bearing, and warns us against any such inordinate and sudden extension of the franchise as might lead to a breakdown of the machinery through sheer weight of numbers.

227. At this point we are brought face to face with the most difficult question which arises in connexion with Communal electorates, elected assemblies—whether communal electorates are to be maintained. We may be told that this is a closed question, because the Muhammadans will never agree to any revision of the arrangement promised them by Lord Minto in 1906 and secured to them by the reforms of 1909. But we have felt bound to re-examine the question fully in the light of our new policy, and also because we have been pressed to extend the system of communal electorates in a variety of directions. This is no new problem. It has been discussed periodically from the time when the first steps were taken to liberalize the councils. There has hitherto been a weighty consensus of opinion that in a country like India no principle of representation other than by interests is practically possible. Lord Dufferin held this view in 1888, and in 1892 Lord Lansdowne's Government wrote that:—"The representation of such a community upon such a scale as the Act permits can only be secured by providing that each important class shall have the opportunity of making its views known in council by the mouth of some member specially acquainted with them." We note that in 1892 the small size of the councils was reckoned as a factor in the decision and that the contrary view was not without its exponents; but we feel no doubt

that Lord Minto's Government followed the predominant opinion when in 1908 they pressed for an important extension of the communal principle. Thus we have had to reckon not only with the settled existence of the system, but with a large volume of weighty opinion that no other method is feasible.

228. The crucial test to which, as we conceive, all proposals should be brought is whether they will or will not help to carry India towards responsible government. Some persons hold that for a people, such as they deem those of India to be, so divided by race, religion and caste as to be unable to consider the interests of any but their own section, a system of communal and class representation is not merely inevitable, but is actually best. They maintain that it evokes and applies the principle of democracy over the widest range over which it is actually alive at all by appealing to the instincts which are strongest; and that we must hope to develop the finer, which are also at present the weaker, instincts by using the forces that really count. According to this theory communal representation is an inevitable, and even a healthy, stage in the development of a non-political people. We find indeed that those who take this view are prepared to apply their principles on a scale previously unknown, and to devise elaborate systems of class or religious electorates into which all possible interests will be deftly fitted. But when we consider what responsible government implies, and how it was developed in the world, we cannot take this view. We find it in its earliest beginnings resting on an effective sense of the common interests, a bond compounded of community of race, religion and language. In the earlier form which it assumed in Europe it appeared only when the territorial principle had vanquished the tribal principle, and blood and religion had ceased to assert a rival claim with the State to a citizen's allegiance; and throughout its development in Western countries, even in cases where special reasons to the contrary were present, it has rested consistently on the same root principle. The solitary examples that we can discover of the opposing principle are those of Austria, a few of the smaller German states, and Cyprus. It is hardly necessary to explain why we dismiss these as irrelevant or unconvincing. We conclude unhesitatingly that the history of self-government among the nations who developed it, and spread it through the world, is decisively against the admission by the State of any divided allegiance; against the State's arranging its members in any way which encourages them to think of themselves primarily as citizens of any smaller unit than itself.

229. Indian lovers of their country would be the first to admit that India generally has not yet acquired the citizen spirit, and if we are really to lead her to self-government we must do all that we possibly can to call it forth in her people. Division by creeds and classes means the creation of political camps organized against each other, and teaches men to think as partisans and not

as citizens; and it is difficult to see how the change from this system to national representation is ever to occur. The British Government is often accused of dividing men in order to govern them. But if it unnecessarily divides them at the very moment when it professes to start them on the road to governing themselves it will find it difficult to meet the charge of being hypocritical or short-sighted.

230. There is another important point. A minority which is given special representation owing to its weak and backward state is positively encouraged to settle down into a feeling of satisfied security; it is under no inducement to educate and qualify itself to make good the ground which it has lost compared with the stronger majority. On the other hand, the latter will be tempted to feel that they have done all they need do for their weaker fellow-countrymen, and that they are free to use their power for their own purposes. The give-and-take which is the essence of political life is lacking. There is no inducement to the one side to forbear, or to the other to exert itself. The communal system stereotypes existing relations.

231. We regard any system of communal electorates, therefore, as a very serious hindrance to the development of the self-governing principle. The evils of any extension of the system are plain. Already communal representation has been actually proposed for the benefit of a majority community in Madras. At the same time we must face the hard facts. The Muhammadans were given special representation with separate electorates in 1909. The Hindus' acquiescence is embodied in the present agreement between the political leaders of the two communities. The Muhammadans regard these as settled facts, and any attempt to go back on them would rouse a storm of bitter protest and put a severe strain on the loyalty of a community which has behaved with conspicuous loyalty during a period of very great difficulty, and which we know to be feeling no small anxiety for its own welfare under a system of popular government. The Muhammadans regard separate representation and communal electorates as their only adequate safeguards. But apart from a pledge which we must honour until we are released from it, we are bound to see that the community secures proper representation in the new councils. How can we say to them that we regard the decision of 1909 as mistaken, that its retention is incompatible with progress towards responsible government, that its reversal will eventually be to their benefit; and that for these reasons we have decided to go back on it? Much as we regret the necessity, we are convinced that so far as the Muhammadans at all events are concerned the present system must be maintained until conditions alter, even at the price of slower progress towards the realization of a common citizenship. But we can see no reason to set up communal representation for Muhammadans in any province where they form a majority of the voters.

232. We have been pressed to extend the concession to other communities. Some have based their claim on their backward, others on their advanced, condition. Thus, the Sikhs in the Punjab, the non-Brahmans in Madras (although in that presidency these actually constitute a majority), the Indian Christians, the Anglo-Indians, the Europeans, and the Lingayat community in Bombay have all asked for communal representation. The large landowning classes also generally desire representation in an electorate of their own. Now our decision to maintain separate electorates for Muhammadans makes it difficult for us to resist these other claims; but, as we have said, in the case of the Muhammadans we have felt ourselves bound by promises given and renewed by Secretaries of State and Viceroy, and in their respect at all events our recommendation involves no new departure. Any general extension of the communal system, however, would only encourage still further demands, and would in our deliberate opinion be fatal to that development of representation upon the national basis on which alone a system of responsible government can possibly be rooted. At the same time, we feel that there is one community from whom it is inexpedient to withhold the concession. The Sikhs in the Punjab are a distinct and important people; they supply a gallant and valuable element to the Indian Army; but they are everywhere in a minority, and experience has shown that they go virtually unrepresented. To the Sikhs, therefore, and to them alone, we propose to extend the system already adopted in the case of Muhammadans.

For the representation of other minorities we should prefer nomination. Even in the case of the general European community, whose material interests in the country are out of all proportion to their numerical strength and on whose behalf it may be argued that no departure from principle is involved, inasmuch as unlike all other communities named they are not an integral part of the population of India, we prefer to rely upon nomination. Special electorates will no doubt be required for the representation of the planting and mining interests, for the chambers of commerce, and possibly also for the universities; but we desire that the number of such electorates should be as restricted as possible, and that minority interests should, where necessary, be represented not by class or interest electorates, but by nomination. Where the great landowners form a distinct class in any province we think that there will be a case for giving them an electorate of their own. The anomaly involved in the presence of nominated members in a council to which we are giving some responsible powers must, we think, be accepted as one of the necessary illogicalities attendant on a transitional period. Such nominations are made for a representative purpose and can be made in such a way as to secure representation. Nomination has in our eyes the great advantage over the alternative of extending the class or communal system that it can be more easily abolished when the necessity for it ceases. We look to the desire of the communities represented by nominated members to see their represent-

atives in council placed upon the same footing as those of other communities to help us in securing the extension of the territorial principle of representation wherever possible. But it should be a clear instruction to the committee that the nominated element in the legislative councils is to be no larger than the exigencies of fair and adequate representation entail.

There may be cases in which nomination proves an unsuitable method of securing the representation of minorities. In such cases the committee should consider whether the needs of the case would be met by reserving to a particular community a certain number of seats in plural constituencies, but with a general electoral roll. We are inclined to look on such an arrangement as preferable to communal electorates.

233. There seem to us good and sufficient reasons for not dispensing entirely with the official element in the legislative councils. Once the official *bloc* is swept away the main objection to the presence of officials no longer exists; their presence has the advantage of tending to steady discussion and of keeping it to practical issues; and their official experience will be invaluable. The exact number of official representatives will be a matter for the committee to consider. We advise, however, that the official element appointed by the Governor should be no larger than is considered necessary for the transaction of business. The members of the executive council should be *ex-officio* members of the legislative council, and there should be so many other official members as will provide the Government with first-hand knowledge of the matters likely to be discussed both in the council and in committee. We wish to see the convention established, though we propose to lay down no rule on the point, that on the subjects transferred to the control of ministers the official members of the legislative council would abstain from voting and leave the decision of the question to the non-official members of council. On other matters, except on occasions when the Government thinks it necessary to require their support, the nominated official members of the legislative councils should have freedom of speech and vote.

234. The great increase which will result from our proposals in the number of members of the provincial legislative councils makes it desirable that they should no longer enjoy the designation "Honourable" which we desire to reserve for the members of the new bodies whose institution we propose in the next chapter. But conformably with practice in other parts of the Empire we suggest that provincial legislators should be entitled to affix the letters M.L.C. to their names. On the other hand, while the language of section 74 of the Government of India Act with its reference to "additional members" marks the survival of the idea that the legislative councils are merely expansions of the executive Government for the purpose of law-making, our proposals will have made it clear that we intend the Indian legislatures of the future to be substantive

legislative organs. We consider therefore that the term "additional members" should no longer be employed in the case of any Indian legislature.

235. Our next proposal is intended to familiarize other elected members of the legislative council, besides Standing committees. ministers, with the processes of administration; and also to make the relations between the executive and legislative more intimate. We propose that to each department or group of departments, whether it is placed under a member of the executive council or under a minister, there should be attached a standing committee elected by the legislative council from among their own members. Their functions would be advisory. They would not have any administrative control of departments. It would be open to the Government to refuse information when it would be inconsistent with the public interest to furnish it. We do not intend that all questions raised in the course of day-to-day administration should be referred to them; but that they should see, discuss and record for the consideration of Government their opinions upon all questions of policy, all new schemes involving expenditure above a fixed limit, and all annual reports upon the working of the departments. If the recommendations of the standing committee were not accepted by Government it would, subject of course to the obligation of respecting confidence, be open to any of its members to move a resolution in the legislative council in the ordinary way. The member of the executive council, or minister concerned with the subject matter, should preside over the committee, and as an exception to the rule that it should be wholly non-official, the heads of the departments concerned, whether sitting in the legislative council or not, should also be full members of it, with the right to vote.

236. Bearing in mind the facts that the legislative councils will in future be larger bodies and will contain a certain number of members unversed in discussion, we feel the importance of maintaining such standards of business as will prevent any lowering of the council's repute. The conduct of business in a large deliberative body is a task that calls for experience which cannot be looked for at the outset in an elected member. We consider therefore that the Governor should remain the president of the legislative council, but inasmuch as it is not desirable that he should always preside, he should retain the power to appoint a vice-president. He should not be formally limited in his selection, but we suggest that for some time to come it will be expedient that the vice-president should be chosen from the official members.

Power to make its own rules of business is a normal attribute of a legislative body. But a simple and satisfactory procedure is of the essence of successful working; and it is advisable to avoid the risk that inexperience may lead to needless complication or other defect in the rules. We think therefore that the existing rules of procedure should, for the time being, continue in force, but that they

should be liable to modification by the legislative council with the sanction of the Governor.

One or two points in connexion with the rules require notice. Any member of the legislative council and not merely the asker of the original question, should, we think, have power to put supplementary questions. Power should be retained in the Governor's hands to disallow questions, the mere putting of which would be detrimental to the public interests. If a question is not objectionable in itself, but cannot be answered without harm to the public interests, the Governor should not disallow the question, but his Government should refuse to answer it on that ground. We have not considered in what respect existing restrictions upon the moving of resolutions should be modified; but here also it seems inevitable that some discretionary power of disallowance should remain in the Governor's hands.

237. We do not propose that resolutions, whether on reserved or transferred subjects, should be binding. *Effect of resolutions.* The Congress-League proposal to give them such authority is open to the objections which we have already pointed out. If a member of the legislative council wishes the Government to be constrained to take action in a particular direction it will often be open to him to bring in a Bill to effect his purpose; and when ministers become, as we intend that they should, accountable to the legislative council, the council will have full means of controlling their administration by refusing them supplies or by means of votes of censure, the carrying of which may in accordance with established constitutional practice, involve their quitting office.

238. It is time to show how we propose that the sphere of business to be made over to the control of the popular element in the Government should be demarcated. *Division of the functions of government.* We assumed in paragraphs 212 and 213, *supra*, that the entire field of provincial administration will be marked off from that of the Government of India. We assumed further that in each province certain definite subjects should be transferred for the purpose of administration by the ministers. All subjects not so transferred will be reserved to the hands of the Governor in Council. The list of transferred subjects will of course vary in each province; indeed it is by variation that our scheme will be adjusted to varying local conditions. It will also be susceptible of modification at subsequent stages. The determination of the list for each province will be a matter for careful investigation, for which reason we have not attempted to undertake it now. We could only have done so if, after settling the general principles on which the lists should be framed, we had made a prolonged tour in India and had discussed with the Government and people of each province the special conditions of its own case. This work should, we suggest, be entrusted to another special committee similar in composition to, but possibly smaller in size than, the one which we have already proposed to constitute for the purpose of

dealing with franchises and constituencies. It may be said that such a task can be appropriately undertaken only when our main proposals are approved. We find it difficult, however, to believe that any transitional scheme can be devised which will dispense with the necessity for some such demarcation; and for this reason we should like to see the committee constituted as soon as possible. It should meet and confer with the other committee which is to deal with franchises, because the extent to which responsibility can be transferred is related to the nature and extent of the electorate which will be available in any particular province. The committee's first business will be to consider what are the services to be appropriated to the provinces, all others remaining with the Government of India. We suggest that it will find that some matters are of wholly provincial concern, and that others are primarily provincial, but that in respect of them some statutory restrictions upon the discretion of provincial Governments may be necessary. Other matters again may be provincial in character so far as administration goes, while there may be good reasons for keeping the right of legislation in respect of them in the hands of the Government of India. The list so compiled will define the corpus of material to which our scheme is to be applied. In the second place the committee will consider which of the provincial subjects should be transferred, and what limitations must be placed upon the ministers' complete control of them. Their guiding principle should be to include in the transferred list those departments which afford most opportunity for local knowledge and social service, those in which Indians have shown themselves to be keenly interested, those in which mistakes which may occur though serious would not be irremediable, and those which stand most in need of development. In pursuance of this principle we should not expect to find that departments primarily concerned with the maintenance of law and order were transferred. Nor should we expect the transfer of matters which vitally affect the well-being of the masses who may not be adequately represented in the new councils, such for example as questions of land revenue or tenant rights. As an illustration of the kind of matters which we think might be treated as provincial and those which might be regarded as transferred we have presented two specimen lists in an appendix to this report. We know that our lists cannot be exhaustive; they will not be suitable to all provinces; they may not be exactly suitable to any province; but they will serve at all events to illustrate our intentions if not also as a starting point for the deliberations of the committee. Our lists are in the main mere categories of subjects. But we have mentioned by way of illustration some of the limitations which it will be necessary to impose or maintain. In dealing with each subject the powers of the provincial legislatures to alter Government of India Acts on that subject will have to be carefully considered. We have indicated in paragraph 240, *infra*, certain other reservations which seem to us necessary. On the publication of this report we should like to see the lists discussed in the provincial councils and considered by the provincial Governments, so that the committee may

have ready at hand considered criticisms upon the applicability of our suggestions to the circumstances of each particular province.

239. We realize that no demarcation of subjects can be decisive in the sense of leaving open no matter for controversy. Cases may arise in which it is open to doubt into which category a particular administrative question falls. There will be other cases in which two or more aspects of one and the same transaction belong to different categories. There must therefore be an authority to decide in such cases which portion of the Government has jurisdiction. Such a matter should be considered by the entire Government, but its decision must in the last resort lie definitely and finally with the Governor. We do not intend that the course of administration should be held up while his decision is challenged either in the law courts or by an appeal to the Government of India. *

240. Further, inasmuch as administration is a living business and its corpus cannot be dissected with the precision of an autopsy, we must, even in the case of matters ordinarily made over to non-official control, secure the right of re-entry either to the official executive Government of the province, or to the Government of India in cases where their interests are essentially affected. For instance, the central Government must have the power, for reasons which will be readily apparent in every case, of intervening effectively, whether by legislation or administrative action, in matters such as those affecting defence, or foreign or political relations, or foreign trade, or the tariff; or which give rise to questions affecting the interests of more than one province; or which concern the interests of all-India services even if serving under provincial Governments. Similarly the Governor in executive council must have power to intervene with full effect in matters which concern law and order, or which raise religious or racial issues, or to protect the interests of existing services. We do not claim that this list of reservations is exhaustive or definitive; we look to the committee to assist in making it so. Our aim must be to secure to the official executive the power of protecting effectually whatever functions are still reserved to it and to the Government of India of intervening in all cases in which the action of the non-official executive or council affects them to their serious prejudice. For otherwise the official Government which is still responsible to Parliament may be unable to discharge its responsibility properly.

241. No doubt we shall be told—indeed we have often been told already — that the business of government is one and indivisible, and that the attempt to divide it into two spheres controlled by different authorities, who are inspired by different principles and amenable to different sanctions, even with the unifying provisions which we have described is doomed to encounter such confusion and friction as will make the arrangement unworkable. We feel the

force of these objections. We have considered them very anxiously and have sought out every possible means of meeting them. But to those critics who press them to the point of condemning our scheme we would reply that we have examined many alternative plans, and found that they led either to deadlock or to more frequent or greater potentialities of friction. Such destructive arguments, so far as we can discover, are directed not so much against our particular plan, but against any plan that attempts to define the stages between the existing position and complete responsible government. The announcement of August 20 postulated that such stages could be found; indeed unless we can find them it is evident that there is no other course open than at some date or other to take a precipitate plunge forward from total irresponsibility to complete responsibility.

242. We have, however, encountered other critics whose arguments are worthy of fuller examination. They agree with us that some division of functions is the right, indeed the inevitable, method of progress; but they tell us that by attempting the division of powers upon the provincial plane we are needlessly enhancing the confusion and friction which will arise, and which could be and ought to be mitigated by a different disposition of the machinery. They urge in brief that the line of division should be horizontal and not vertical; and that popular control and popular responsibility ought to be developed not in the provincial legislative councils, but in new constitutional bodies to be created for this purpose and invested with jurisdiction over smaller areas. They claim that friction will be avoided or at all events diminished, if the delegated functions of the new bodies are more closely circumscribed by the terms of the legislation calling them into existence than is possible in the case of the provincial councils; and if they are protected from the temptation to place themselves in constant opposition to the official element which would be offered by the presence of both elements in one and the same Government and in one and the same council. They reckon it to the credit of their schemes that by confining the operations of the new constitutional bodies to areas smaller than provinces, they hope to draw into the arena of public affairs men who could hardly be expected to come forward for the provincial councils. They urge that by presenting themselves to the official services not so much as rival governments but as organs of local self-government on the largest and most generous scale, they may feel confident of official help and co-operation.

243. In their less pretentious form of expression these ideas are embodied in a scheme which has been placed before us for the establishment of divisional councils. These bodies would have jurisdiction over a revenue division, and would deal with all questions of local self-government and certain other matters delegated to them, such as excise, agricultural farms, provincial roads and some branches of education. They would have definite revenues of their own and also power to increase their income by local taxation.

They would administer the business delegated to them by means of an executive committee, of whom the president would be elected by the council and would himself choose his own colleagues. The provincial legislative council would be composed of delegations from the divisional councils, and would contain no official members other than the members of the executive council who would attend only to reply to questions and to explain the Government's attitude. As regards the matters made over to the divisional councils the provincial council would retain certain powers of legislation, taxation, and of sanctioning rules; but as regards all other subjects its powers would be only those of deliberation and criticisms unless the Government referred a particular question to it for decision.

244. Though we desire to acknowledge the thoughtful manner in which the proposals were worked out we need not amplify them in detail because we found at the outset weighty reasons for rejecting them. The scheme in our opinion fails to provide for continuing and ordered progress in the future. The divisions are in very many instances artificial units, which are not suitable areas on which to base permanent institutions; and in any case they are certainly too small to serve permanently as self-governing units. Although it was contemplated that further spheres of business could be from time to time made over to them no great progress would be possible because the range of matters which could be administered on a divisional basis must for practical reasons be limited. Progress would therefore soon be checked unless, as indeed the authors of the scheme contemplated, the divisional councils coalesced so as to form larger bodies. It seems to us better to start from the outset on a plane on which a permanent edifice can be built. However this be, we feel that the scheme is unacceptable for reasons similar to those which led us to decide that it was impossible to confine advance to the limited sphere of purely local self-government. Whatever may be said of it on theoretical grounds it would not satisfy political needs. If the scheme for divisional councils, and the cognate scheme described below, succeeded in drawing into public life men who could hardly be expected to come forward to the provincial councils, it would also have the effect of very largely depriving those who had had some experience of political matters and whose life is spent in the provincial capitals of many opportunities of effective political work. On the legislative council they would find their functions narrowly restricted; and on the divisional councils also they would deal with a far smaller range of subjects than that with which they had hitherto been concerned.

245. We have also considered a more ambitious development of the same leading idea which was presented to us by the signatories to a joint address of European and Indian gentlemen in Calcutta. They propose that existing provinces should be sub-divided into a limited number of smaller areas on a linguistic or racial basis, and that for such provincial States there should be constituted State councils and State

governments dealing only with such matters as those which in our scheme would be included in the transferred list. The official Government of the province would continue to administer the reserved subjects for the whole provincial area; but inasmuch as responsibility would have been given and would be intended to be developed solely in the State councils, the legislative council of the province would, when the daughter bodies came into being, lose its legislative functions and lapse into the position of a purely advisory body, except that if the provincial executive disregarded its wishes it would have the right of appeal to the Government of India and the Secretary of State. As the State councils developed, more and more functions would be made over to them, as the result of periodical inquiry by a recurrent commission—an idea for which we acknowledge our own indebtedness to the authors of the scheme—until finally, the provincial Governments disappeared, and the future polity of British India was represented by a series of States enjoying responsible government.

246. We have considered this scheme with the care which its Reasons for rejecting skilful preparation and authoritative endorsement generally. But the disadvantages of the scheme, as it seems to us, far outweigh its advantages. The proposals to withdraw from the provincial councils, even as a transitional arrangement, their present opportunities of affecting the action of Government would certainly meet with great opposition and be regarded as retrograde. Moreover, while the State Governments would indeed be real Governments and not merely larger organs of local self-government, it would, we believe, be necessary to circumscribe their powers to an extent on which it will be difficult to insist in practice. Though differences in area might mitigate the effects of dualism there would actually be in one and the same territory two Governments and two legislatures, each equipped with a separate service of officers. There would be no means of securing cohesion between the two Governments; and we apprehend that grave divergences of view might occur which there would be no easy means of composing. If it is true that the presence of two elements in one and the same Government presents opportunities for collision it presents also opportunities for understanding and co-operation. It appears to us that wisdom lies not in equipping each of the different elements with a complete and separate paraphernalia of its own, and trusting to their orbits lying sufficiently apart for collisions to be avoided, but in taking every opportunity of bringing the two elements into contact so as to induce the habits of joint action. However this be, there remains one practical reason of paramount force against our proceeding with the scheme. In spite of the evidence which has reached us of the existence in parts of India of distinct areas or communities which are anxious to secede from the larger administrative units of which they now form part, we feel sure that any general scheme of geographical partition would evoke such strong opposition as would be fatal to the whole plan. Generally speaking, we may describe provincial patriotism as sensitively jealous of its territorial integrity. Divi-

sions of territory which are not made in response to a popular demand are apt to provoke wide and deep-seated dissatisfaction. We are convinced, after taking note of a recent debate in the Indian Legislative Council upon this subject, that we should be very unwise to attempt to unite the sufficiently difficult task of revising the constitution of India with the highly controversial labour of simultaneously revising the political geography of the entire country. None the less, while we discard as impracticable the idea of calling into existence new provincial States as part of our own constructive scheme, we are impressed with the artificial, and often inconvenient character of existing administrative units. We have seen how historical reasons brought them about. We cannot doubt that the business of government would be simplified if administrative units were both smaller and more homogeneous; and when we bear in mind the prospect of the immense burdens of government in India being transferred to comparatively inexperienced hands such considerations acquire additional weight. It is also a strong argument in favour of linguistic or racial units of government that, by making it possible to conduct the business of legislation in the vernacular, they would contribute to draw into the arena of public affairs men who were not acquainted with English. We believe emphatically that redistributions of provincial areas cannot be imposed upon the people by official action; and that such a process ought in any case to follow, and neither to precede nor accompany, constitutional reform. But we are bound to indicate our own clear opinion that wherever such redistributions are necessary and can be effected by process of consent the attempt to do so should be made; and therefore we desire that it should be recognized as one of the earliest duties incumbent upon all the reformed provincial Governments to test provincial opinion upon schemes directed to this end. In Orissa and Berar at all events it seems to us that the possibility of instituting sub-provinces need not be excluded from consideration at a very early date.

247. We now turn to a consideration of the work of the legislative councils. Assuming that they have been reconstituted with elective majorities, and that the reserved and transferred subjects have been demarcated in the way suggested, let us consider how the executive Government is to be enabled to secure the passing of such legislation or such supplies as it considers absolutely necessary in respect of the reserved services. For we must make some such provision if we are going to hold it responsible for the government of the province.

Now in respect of legislation there are several possibilities. We might leave it to the Government of India to pass the laws which a provincial Government has failed to carry in the Indian legislature where, as we shall show, we intend to leave it in a position to pass the laws which it deems essential; or we might leave it to the Governor General, or preferably perhaps to the Governor General in Council, to make and promulgate ordinances, having effect either

for a specified period, or else until such time as the life of the provincial legislative council which refused the desired legislation was cut short or expired and a new council was elected in its place; or we might arm the provincial Government with a similar power of ordinance-making. We shall explain why we reject all these alternatives.

248. To invite the Government of India to intervene whenever the provincial Government encountered effective opposition to its legislative proposals would strike at one of our root propositions. The provincial Governments must ordinarily be autonomous in their own legislative field; and for them to call in the Government of India for this purpose would be a negation of this principle. Moreover, we feel the gravest doubt whether the Government of India would in fact be found willing to undertake any such responsibility. The Government of India would be accused of ignorance of local conditions and disregard of provincial wishes; of giving with one hand and taking away with another. Nor would its legislature be suitably constituted for such a purpose. We question whether it would be at all disposed to assume the ungrateful task of carrying in its own legislature such unpopular and controversial legislation as provincial circumstances might demand.

249. For even stronger reasons we reject the suggestion that the Governor General or the Governor General in Council should be invited to deal with the refusal of a provincial council to pass a law by the device of promulgating an ordinance. As we saw, this power was a revival of the old system by which the original executives made the law; it was in its revived form never intended for more than emergency use, to which purpose it has since been strictly confined. Apart from war legislation, the Governor General's ordinance-making power has been employed only six times in 57 years. To resort to it as an ordinary means of carrying Bills that had been refused by a provincial council would excite the strongest opposition; and to pass ordinances without first enabling the council to discuss them would be to abandon all the advantages of publicity and criticism. The idea that the provincial Governor in Council should be equipped with a power to make ordinances was also one to which we gave some consideration. Inasmuch as there will be a strong Indian element in the provincial executives of the future the opposition to such legislation by the executive would no doubt be diminished; but we felt that it was impossible to ask Parliament to confer on the Governments of provinces a power which they had never enjoyed since 1833 and which is opposed to the whole spirit of our reforms. A further practical objection was the likelihood that the executive would be often divided upon the merits of a particular project, and that the Governor who proposed to put it into force by the medium of an ordinance might find himself faced with the resignation of some of his Indian colleagues or ministers.

250. We considered further whether these objections could not be mitigated by laying the proposed ordinances before an advisory committee, or by carrying them by the machinery of a separate council dealing only with reserved subjects. In this latter case the Governor in Council would obtain his essential legislation and supplies from a legislative council so constituted as to enable Government to give effect to its wishes, while the ministers would lay their Bills and financial proposals before another legislative council wholly or predominantly elected. We abandoned this idea, first, because it appeared to us to emphasize most unwisely the severance between the two elements in the administration which it should be our consistent aim to bring together as closely and continuously as possible; and, secondly, because it deprived the popular legislature of the power which it now enjoys of affecting the action of Government in the reserved subjects.

251. The alternative plan of constituting an advisory committee before which draft ordinances should be placed before their promulgation did not satisfy us. We felt that though the deliberations of such a body might palliate the nakedness of what is really an official edict, the fact that the committee's assent to the measure would not be necessary would deprive the palliative of any political value.

252. Because, as we shall show in paragraph 258, we have decided not to recommend the institution of second chambers in the provinces we cannot apply to the provinces the scheme which we propose hereafter for the Government of India; and we must turn to some form of unicameral arrangement. The solution which we propose is as follows. For the purpose of enabling the provincial Government to get through its legislation on reserved subjects we propose that the head of the Government should have power to certify that a Bill dealing with a reserved subject is a measure "essential to the discharge of his responsibility for the peace or tranquillity of the province or of any part thereof, or for the discharge of his responsibility for the reserved subjects." In employing these words we are not assuming the function of a parliamentary draftsman; we merely mean to indicate that words will be needed to show that this exceptional procedure will be used only when the Government feels that its legislation is necessary if peace and tranquillity are to be secured, or more generally if it is properly to discharge its responsibility for the reserved subjects even if no question of maintaining order arises. It will be seen hereafter that we propose similar procedure for controlling non-official Bills, amendments and clauses and for controlling budget allotments on reserved subjects. In these cases also we shall speak of certification as indicating that the Governor was using the exceptional procedure in the circumstances described above. Such a certificate as we have described would not be given without strong reason; and we suggest that the reasons justifying recourse to it might be included in the

Instructions to Governors which the India Office should issue; for instance, we think that the Governor should not certify a Bill if he thought its enactment could safely be left to the legislative council. The effect of the Governor's certificate when published with the Bill will be to intimate the procedure which we now describe. The Bill will be read and its general principles discussed in the full legislative council. It will at this stage be open to the council by a majority vote to request the Governor to refer to the Government of India, whose decision on the point shall be final, the question whether the certified Bill deals with a reserved subject. If no such reference is made, or if the Government of India decide that the certificate has been properly given, the Bill will then be automatically referred to a grand committee of the council. Its composition should reproduce as nearly as possible the proportion of the various elements in the larger body. Our first intention was that the grand committee in each province should be a microcosm of the existing council. But we find that the existence of communal and special electorates makes it difficult to secure to all of these their due representation on a smaller body without at the same time sacrificing the representation of the interests represented by the general electorates, to which it is our special intention to give a greater voice in the councils than heretofore. Accordingly, we propose that the grand committee in every council should be constituted so as to comprise from 40 to 50 per cent of its strength. It should be chosen for each Bill, partly by election by ballot, and partly by nomination. The Governor should have power to nominate a bare majority exclusive of himself. Of the members so nominated not more than two-thirds should be officials, and the elected element should be elected *ad hoc* by the elected members of the council on the system of the transferable vote. It is clear that the composition of the grand committee ought to vary with the subject matter of the particular Bill; and we believe that the council and the Governor between them can be trusted to ensure that whether by election or nomination all the interests affected by the Bill are properly represented. It may be objected that such a grand committee so composed offers the official executive no absolute guarantee that its measure will get through. We agree that this is the case; but there is no such guarantee at present. In a grand committee of 40 members there could be 14 officials, and we consider that no great harm will ensue if Government defers legislative projects which are opposed by the whole elected element and for which it cannot secure the support of six out of the seven members, whom the Governor has it in his power to select from the whole body of the non-official members in the council.

253. On reference to the grand committee, the Bill will be debated by that body in the ordinary course and if necessary referred to a select committee, to which body we think that the grand committee should have power to appoint any member of the legislative council whether a member of the grand committee or not.

The select committee will, as at present, have power to take evidence. Then, after being debated in the grand committee and modified as may be determined the Bill will be reported to the whole council. The council will have the right to discuss the Bill again generally but will not be able to reject it, or to amend it except on the motion of a member of the executive council. The Governor will then appoint a time-limit within which the Bill may be debated in the council, and on its expiry it will pass automatically. But during such discussion the council will have the right to pass a resolution recording any objection which refers to the principle or details of the measure (but not of course to the certificate of its character), and any such resolution will accompany the Act when, after being signed by the Governor, it is submitted to the Governor General and the Secretary of State.

254. Legislation on transferred subjects and non-certificated legislation on reserved subjects will continue to be passed by the full council. This makes it necessary to provide for the contingency that a Bill on a transferred subject may trench upon the reserved field of legislation. We suggest that it should be open to any member of the executive council (though to prevent irresponsible obstruction we would not give this power to members of the legislative councils generally) to challenge the whole Bill or any clause of it on its first introduction, or any amendment, as soon as such amendment is moved, on the ground that the Bill, clause, or amendment impinges on the reserved sphere. The question will then be referred to the Governor, who may allow the Bill to proceed in legislative council. But if he rules that the Bill, clause, or amendment trenches upon the reserved subjects, he may, if he sees reason to do so (after hearing any representations that the legislative council may desire to make), certify it accordingly. The Governor's certificate to this effect should be final, subject only to the right of the council to require a reference to the Government of India (as provided in paragraph 252, *supra*). If the Governor certifies the Bill, clause, or amendment it will be open to him either to decline to allow it to be discussed, in which case it would drop; or to suggest to the council an amended Bill; or at the request of the council to refer the Bill to a grand committee. With this proviso, there will be no need to impose restrictions other than those already imposed by section 80 of the Government of India Act, 1915, on the right of private members to introduce Bills. We may be told that the procedure suggested is cumbrous and dilatory, and offers a premium to obstructive tactics. But we confess that we have not been able to find any simpler method of reconciling two competing aims—the competence of Government to secure its necessary legislation, and on the other hand the power of the elected element in council to ensure that such discretion shall not be used arbitrarily or without due necessity by the executive. It must, we think, be left to the good sense of the council itself, which will realize that its own record will be closely scrutinized and adjudicated upon by the

periodic commission, which we propose below, to exert itself to check abuses. We consider also that the Governor of a province should have power to dissolve his legislative council and that this will give him a valuable means of control. It will be understood that the assent of the Governor, the Governor General, and the Crown (signified through the Secretary of State) will remain necessary for all provincial legislation, whether certified or not. We think, moreover, that the Governor's discretionary power of assenting to a Bill should include a power to return the measure for reconsideration of particular provisions in it; and that the Governor General should have the same power of reserving provincial laws for the Royal assent as he has in the case of all Indian legislation.

255. We now come to the crucial question of budget procedure.

Budget procedure.

It is more difficult than that of legislation, because while legislation on a reserved subject may clearly not impinge on transferred subjects, money devoted to reserved objects of expenditure can with some sort of reason be always represented as being diverted from the transferred objects. There must therefore be means of securing that the executive council shall be able to find the money to keep the administration of the reserved subjects efficient, and there must also be means of securing that to the expanding cost of the transferred services, a fair proportion of the total revenue is devoted. For it must be remembered that the transferred services are generally those which stand in greater need of development.

256. To this end we have examined various expedients. We

Its difficulties and their solution.

were attracted by the possibility of appointing a joint committee representing both official and non-official views to make a financial settlement dealing with both reserved and transferred subjects, which should hold good for a period of say six years, always supposing that it can be varied meantime by agreement, confirmed by the assent of the legislative council. We were anxious to find some solution for the difficulties and friction which might otherwise annually occur between the two elements in the Government which are responsible for the reserved and transferred services. The device of reference to the Government of India we dismiss as being a negation of our leading principle of provincial autonomy. It seems to us even more idle to suggest a settlement by process of laying papers before Parliament. It has also been proposed that disputes might be composed by an internal tribunal within the province, comprising a high court judge, a Government official, and an elected member; but we dismiss such an expedient from consideration, because so long as the Governor in Council is responsible for reserved subjects, we hold that he must have power to decide what revenues he requires. On full consideration we have decided to set aside all suggestions for a settlement. We doubt whether any committee's recommendations would commend themselves to Indian opinion much better than the Governor's decision, to which in the event of irreconcilable difference of opinion between the two halves of the Government the matter must ultimately come.

A settlement would also result in a rigid allocation, which would be yearly attacked in debates and which it might be difficult to vary by agreement; and at best it only defers the difficulty for a six years' period, at the end of which it would present itself again with the accumulated force of six years' discontents. It is impossible to foresee the contingencies which may occur in six years, and to budget in advance for so long a period. The difficulty is fundamental and we cannot overcome it by any simple device. Nor are we without belief in the educative efficacy of the annual budget discussion. We propose therefore that the provincial budget should be framed by the executive Government as a whole. The first charge on provincial revenues will be the contribution to the Government of India; and after that the supply for the reserved subjects will have priority. The allocation of supply for the transferred subjects will be decided by the ministers. If the revenue is insufficient for their needs the question of new taxation will be decided by the Governor and the ministers. We are bound to recognize that in time new taxation will be necessary, for no conceivable economies can finance the new developments which are to be anticipated. The budget will then be laid before the council which will discuss it and vote by resolution upon the allotments. If the legislative council rejects or modifies the proposed allotment for reserved subjects the Governor should have power to insist on the whole, or any part of the allotment originally provided, if for reasons to be stated he certifies its necessity in the terms which we have already suggested. We are emphatically of opinion that the Governor in Council must be empowered to obtain the supply which he declares to be necessary for the discharge of his responsibilities. Except in so far as the Governor exercises this power the budget would be altered in accordance with the resolutions carried in council.

257. We anticipate that anxiety may be felt as to the supply for the transferred subjects. We believe that this anxiety is largely based on an exaggerated view of the possibilities of economy in the reserved subjects. We do not feel, however, that there need be any apprehension. No Governor in Council is likely, without real reason, to disregard the wishes of the legislative council, and we hold that, if he has real reasons, he ought to disregard them in the discharge of his responsibilities. But we may point out the series of safeguards which our plan provides. The budget will be considered by the whole Government acting together. Those in charge of the transferred subjects will have every opportunity of acquainting themselves with the considerations upon which the allotment for the reserved subjects is based. In these joint discussions the provincial revenues will be estimated; the contribution to the Government of India will be set apart; the proposed allotments for the reserved subjects will then be carefully scrutinized and examined with a view to facing criticism in the legislative council, and the remainder of the revenue will be at the disposal of the ministers. If such residue is not sufficient, it is

Safeguards against difficulties.

open to the ministers to suggest extra taxation either within the schedule of permissible provincial taxation, or by obtaining the sanction of the Government of India to some tax not included in the schedule. Such taxation proposals would be presented to the legislative council only with the approval of the ministers. Moreover, there is a standing committee representative of the legislative councils not only on finance, but attached to all the reserved portfolios; and these standing committees will have the opportunity of scrutinizing all proposals for substantial expenditure, and of familiarizing themselves with departmental needs. But if the ministers and the legislative councils are compelled to accept allotments for the reserved subjects with which they do not agree our proposal that a periodic commission shall review the proceedings affords another safeguard. Both the Government and the legislative council will decide on their course of action with the full knowledge that their conduct in the matter will, in due course, come under review by the Commission. There will be opportunity of arguing before the Commission, on the one hand, that reserved subjects have been extravagantly administered, or that the Governor in Council has unnecessarily disregarded the wishes of the legislative council, or, on the other hand, that the attitude of the legislative council with regard to the expenditure on reserved subjects has been so unreasonable as to make it unsafe to transfer further powers. Although we believe, therefore, that no insuperable difficulty will arise if reasonable men conduct themselves in a reasonable manner this periodic sanction will tend to produce a spirit of compromise and co-operation.

258. At this point we may explain that we have considered the feasibility of establishing a bicameral system in the provinces. Its advocates urge that in creating upper houses we should follow the system which generally prevails in countries where popular government has firmly established itself. We might also expect that the representation of minority interests would become more effective in an upper house than in a single composite chamber, because minority representatives sitting in a chamber of their own might feel themselves freer to defend the interests which they represented than if they sat together with other elements in a lower house. We might secure men for the upper houses who would not seek election or even accept nomination, to a composite assembly where the majority of members were of a different status from themselves; and so the second chamber might develop a conservative character which would be a valuable check on the possibly too radical proclivities of a lower house. But we see very serious practical objections to the idea. In many provinces it would be impossible to secure a sufficient number of suitable members for two houses. We apprehend also that a second chamber representing mainly landed and moneyed interests might prove too effective a barrier against legislation which affected such interests. Again, the presence of large landed proprietors in the second chamber might have the unfortunate result of discouraging

other members of the same class from seeking the votes of the electorate. We think that the delay involved in passing legislation through two houses would make the system far too cumbrous to contemplate for the business of provincial legislation. We have decided for the present, therefore, against bicameral institutions for the provinces. At the same time we bear in mind that as provincial councils approach more closely to parliamentary forms the need for revising chambers may be the more felt; and we think that the question should be further considered by the periodic commission which we propose hereafter.

259. We should now make it clear what the relations of the executive officers in the provinces will be to the new Government. Let us say at once that we have no intention of introducing any duality into the services. It would be unfair to expect ministers new to responsibility to assume the burden of office unless they could command the assistance of the present highly trained services. To require them to inaugurate new services for their own departments would, we think, be to saddle them with difficulties that would doom the experiment to failure. This consideration, among others, was prominent in our minds when we concluded that ministers should form part of the executive Government of the province rather than a separate Government. That there are difficulties in either case we do not deny, but they would certainly be greater if one and the same officer received his orders from two Governments instead of one. The objection may be taken that the same authority may not be felt to attach to orders coming from ministers as to orders coming from the executive council. We do not admit that they will come from either. All orders will come from the Government, and they will all be Government orders. At the present time it is not the business of an executive officer to differentiate between an order conveyed to him by the secretary to Government in one department, and an order conveyed to him by the secretary in another department, and the procedure will not differ in the future.

FUTURE DEVELOPMENT.

260. Having now described the new constitution which we propose at the outset let us show how we intend to provide for its assured and regular development in future. Our idea is that as the popular element of the Government acquires experience and learns to discharge its duties efficiently further powers should be entrusted to it. The process in fact will be one of adding to the transferred subjects and of taking from the reserved ones, until such time as with the entire disappearance of the reserved subjects the need for an official element in the Government, or of procedure by grand committee, vanishes, and thus the goal of complete responsibility is attained in the provinces. What we have to do is at once to encourage and to regulate this process. After five years'

time from the first meeting of the reformed councils we suggest that the Government of India should hear applications from either the provincial Government or the provincial council for the modification of the reserved and transferred lists of the province; and that after considering the evidence laid before them they should recommend for the approval of the Secretary of State the transfer of such further subjects to the transferred list as they think desirable. On the other hand, if it should be made plain to them that certain functions have been seriously maladministered it will be open to them with the sanction of the Secretary of State to re-transfer subjects from the transferred to the reserved list, or to place restrictions for the future on the ministers' powers in respect of certain transferred subjects. This examination of the question by the Government of India after the lapse of five years will be of value in enabling the allotment of portfolios to be redetermined, if need be, in the light of the experience gained during that time. But it is also desirable to complete the responsibility of the ministers for the transferred subjects. This should come in one of two ways, either at the initiative of the council if it desires and is prepared to exercise greater control over the ministers, or at the discretion of the Government of India, which may wish to make this change as a condition of the grant of new, or of the maintenance of existing, powers. We propose therefore that the Government of India may, when hearing such applications, direct that the ministers' salaries, instead of any longer being treated as a reserved subject and therefore protected in the last resort by the Governor's order from interference, should be specifically voted each year by the legislative council; or failing such direction by the Government of India, it should be open to the councils at that time or subsequently to demand by resolution that such ministers' salaries should be so voted, and the Government of India should thereupon give effect to such request. The ministers would in fact become ministers in the parliamentary sense. The councils would have power to refuse to pass their salaries, and they would have to accept the consequences which constitutional convention attaches to such a vote.

261. The arrangements sketched in the last paragraph, however, are intended to provide merely for *ad interim* changes; and we regard it as essential, if the terms of the announcement of August 20 are to be made good, that there should from time to time come into being some outside authority charged with the duty of resurveying the political situation in India and of readjusting the machinery to the new requirements. We would provide, therefore, that ten years after the first meeting of the new councils established under the statute a commission should be appointed to review the position. Criticism has been expressed in the past of the composition of Royal commissions, and it is our intention that the commission which we suggest should be regarded as authoritative and should derive its authority from Parliament itself. The names of the commissioners therefore should

be submitted by the Secretary of State to both Houses of Parliament for approval by resolution. The commissioners' mandate should be to consider whether by the end of the term of the legislature then in existence it would be possible to establish complete responsible government in any province or provinces, or how far it would be possible to approximate to it in others; to advise on the continued reservation of any departments for the transfer of which to popular control it has been proved to their satisfaction that the time had not yet come; to recommend the retransfer of other matters to the control of the Governor in Council if serious maladministration were established; and to make any recommendations for the working of responsible government or the improvement of the constitutional machinery which experience of the systems in operation may show to be desirable. We intend these propositions to be read rather as an indication of our general intentions than as an attempt to draft the actual terms of the reference to the commission.

262. There are several other important matters, germane in greater or less degree to our main purpose, which the commission should review. They should investigate the progress made in admitting Indians into the higher ranks of the public service. They should examine the apportionment of the financial burden of India with a view to adjusting it more fairly between the provinces. The commission should also examine the development of education among the people and the progress and working of local self-governing bodies. Lastly the commission should consider the working of the franchise and the constitution of electorates, including the important matter of the retention of communal representation. Indeed we regard the development of a broad franchise as the arch on which the edifice of self-government must be raised; for we have no intention that our reforms should result merely in the transfer of powers from a bureaucracy to an oligarchy. We shall be told that we are laying a heavy charge upon the commission. We agree that this is so, and it will probably be necessary to appoint more than one commission; but we think it important that the review of all these questions should be undertaken at one and the same time. It is our desire to revive the process by which the affairs of India were periodically subjected to searching review by investigating bodies appointed with the approval of Parliament itself; and we propose therefore that the further course of constitutional development in the country, together with the other matters just enumerated, shall from time to time be similarly investigated at intervals of twelve years, a period which represents the life of four councils under the existing regulations.

263. In proposing the appointment of a commission ten years after the new Act takes effect we wish to guard against possible misunderstanding. We would not be taken as implying that there can be established by that time complete responsible government in the provinces. In many of the provinces no such consum-

mation can follow in the time named. The pace will be everywhere unequal, though progress in one province will always stimulate progress elsewhere; but undue expectations might be aroused if we indicated any opinion as to the degree of approximation to complete self-government that might be reached even in one or two of the most advanced provinces. The reasons that make complete responsibility at present impossible are likely to continue operative in some degree even after a decade. Within that time many persons will have been brought in touch with problems of administration and a considerable number will have some experience of the actual exercise of responsibility; but we recognize that time is necessary for the development of responsibility in the electorates and the growth of proper relations between representatives and constituencies. At present electorates of a general character hardly exist. Almost all are designed to represent special classes or interests and consist of very few persons. Those which represent Muhammadans were intended to be fairly inclusive but even those are limited to a few hundred electors. The much larger electorates that will now be set up, though still a mere fraction of the population, will be devoid of political experience. The habit of considering political issues as issues to be decided by a man's own judgment, of realizing their value of the proper use of a vote and of judging candidates with regard to their fitness to represent the elector's views have all to be acquired. The physical circumstances of electorates thinly scattered over wide areas with indifferent communications will render the task of educating them particularly difficult, especially for men who will have to undertake a work of which they themselves have so little experience. These difficulties will be increased by the general lack of education. Where the great mass of the population is illiterate, as is unfortunately the case all over India, political ideas may be expected only to spread slowly and the progress of political education to be impeded. But we have already recognized the rapid rate of progress which has taken place in India during recent years in the development of political opinion; and we cannot foresee how much the pace will be accelerated under the new conditions. It is therefore clearly desirable that periodic inquiries should take place at intervals that may prove too short rather than that encouragement should be given to agitation by undue delay.

264. But inasmuch as complete responsible government essentially depends upon the existence of an electorate sufficiently active and cognizant of affairs to hold their representatives effectively to account we think that one of the most important duties of the commission will be to examine the growth of capacity and responsibility in the electorates. The approximation to complete responsibility must depend among other things on the growth of the electorate and on the measure in which they give evidence of an active and intelligent use of the franchise. We wish to attain complete responsibility where we can and as early as we can, and we intend that its attainment should depend upon the efforts of the Indian people themselves. It would not be fair to give it to them till they fulfil the necessary conditions.

Chapter IX.—The Government of India and the India Office.

I.—THE GOVERNMENT OF INDIA.

265. We shall have discharged our task indifferently if it is not already plain from our report that all the changes which we suggest are no more than the necessary adjustment of the constitution to a rapidly changing environment. So long as the people of India were content to leave their government in official hands the system was well-devised to the needs of the country, and was directed with astonishing zeal and success to beneficent ends. We have tried to give some account of the burden of the work. We may well pause to pay a tribute to the part played by the Government of India itself in guiding and inspiring the entire system. Rarely has a heavier burden of responsibility continuously rested on a smaller body of men; rarely has it been discharged with greater ability or a higher sense of public duty. We have changes to propose, corresponding to changing conditions; but we should keenly regret it if anything we said were taken as failing in the tribute due to great work finely done. But more is now being demanded of the system than it can give. It is no longer sufficient to administer India; it is necessary also to satisfy her political aspirations; and because we were all too slow in taking cognizance of the changes that were occurring the task is all the heavier because there is lee-way to make up. We must therefore introduce a new element of strength into the Government.

266. We have already made our opinion clear that pending the development of responsible government in the provinces the Government of India must remain responsible only to Parliament. In other words, in all matters which it judges to be essential to the discharge of its responsibilities for peace, order, and good government it must, saving only for its accountability to Parliament, retain indisputable power. With the precise manner in which the control by Parliament must in future be modified we shall deal hereafter. For the present we will concern ourselves with changes in the functions, structure, and methods of the Government of India itself. We think we have reason for saying that in some respects the machinery is no longer equal to the needs of the time. The normal work of the departments is heavy. The collective responsibility of the Government is weighty, especially in time of war. There is little time or energy left for those activities of a political nature which the new situation in the country demands. A legislative session of the Government of India imposes a serious strain upon the departments, and especially on the members in charge of them. They have not merely to carry on their heavy task of adminis-

tration and to share in the discussion and decision of grave matters policy, but they have to prepare themselves to meet a growing volume of criticism at meetings of the legislative council; and when, as has now happened, they are called upon in addition to deal with urgent and complex questions of constitutional reform, the burden becomes one that it is unreasonable to impose on so small and highly worked a body of men. We desire to take this opportunity of acknowledging how ungrudgingly their services have been given to our présent task. But, apart from the inevitable complexities of the moment, the growing burden of business, which results from the changing political conditions of the country, is leading to an accumulation of questions which cannot be disposed of as quickly as they present themselves. We find the necessity for reforms admitted, principles agreed upon and decisions taken, and then long delays in giving effect to them. Difficulties are realized, inquiries are started, commissions report, and then there is a pause. There is a belief abroad that assurances given in public pronouncements of policy are sometimes not fulfilled. On this occasion therefore we have taken steps to guard against such imputations, and to provide means for ensuring the ordered development of our own plans,

267. The main fault for the clogging of the machine does not, we think, lie altogether with its highly trained engineers. What is chiefly wanted is some change of system in the directions of simplicity and speed. How does it happen that announcements are made that arouse expectations only to defeat them? We know that it is not from any intention of deluding the public. We suggest that it is because the wheels move too slowly for the times; the need for change is realized, but because an examination of details would take too long promises are made in general terms, which on examination it becomes necessary so to qualify with reservations as to disappoint anticipations and even to lead to charges of breach of faith. We suspect that a root cause of some political discontents lies in such delays. Now, so far as the provinces are concerned, we believe that our proposals for freeing them to a great extent from the control of the Government of India and the Secretary of State will improve matters. But the Government of India are in the worst case. In all important matters they have to consult local Governments, and then to secure the approval of the Secretary of State. Consultation with local Governments there must always be; but with developing autonomy in the provinces, and less frequent interference by the Secretary of State, we see no reason why quicker and more informal methods should not be pursued. We hope that the new departure inaugurated in January last at the conference between the Government of India and all the heads of Governments in Delhi may be repeated annually, and may lead to a closer understanding of the varying conditions of the provinces and some diminution of official correspondence.

268. References to the India Office are a second fruitful cause of delay.

References to the India Office. The India Office, having statutory responsibilities to discharge, exercises its authority with good care and with all the expert knowledge at its command. Proposals that have been examined in India are re-examined in England and fresh suggestions may be forthcoming from Whitehall upon which Delhi may find it necessary to take the further opinion of Calcutta, Bombay, and the rest. Now we recognize that so long as the Indian Government is not responsible to an electorate the guardianship of the welfare of India as a whole must remain in the hands of Parliament. Indeed, as we shall show, we go on hereafter to make suggestions for sustaining the interest taken by Parliament in India better and for improving the means of information at its disposal. But, on the other hand, we must also consider practical needs. We have seen how rarely Parliament asserts its power, how little interest and time it devotes to Indian affairs, and how much it leaves to the Secretary of State in Council. Granting, therefore, that Parliament's understanding of the larger Indian questions, and its responsibility for policy, ought to be increased there is no real inconsistency in saying that we should ask it simultaneously to agree to relax the Secretary of State's control in details. We consider that the Secretary of State's previous sanction to decisions taken in India should be required in fewer cases than in the past; and that in some matters it will suffice in future if he asserts his control by means of a veto if necessary.

269. A further cause contributing to delay is that the departments

Insufficiency of staff. at headquarters are now overworked. It is often overlooked how small is the staff which carries on the work of the great departments. Normally, it consists of a member in charge, a secretary, a deputy secretary, and an under-secretary. The remainder of the staff is purely clerical. If this is compared with the staffing of one of the great departments in Whitehall, and every allowance is made for the difference of conditions, it will be clear how numerically weak the staff of the Government of India is; and how great is the strain upon its members, especially in such times as the present. One reason why the departments can move quickly in England is because their day-to-day administration runs itself. New inquiries can be set on foot, and policies thought out by the head of the department, with the help of a large and experienced permanent staff. In India the higher staff of the secretariats is not permanent, because rightly or wrongly it has always been held desirable to maintain touch between the headquarters offices and the districts. Men are selected from the administrative staff, serve for a time in the offices, and return to administration. One result of this discontinuity is that questions which a permanent civil service can safely dispose of by word of mouth become the subject of continuous minuting. Changes of personnel necessitate a record of the questions, and the aspects of questions considered. We express no opinion on the system, but it requires detailed examination. Indeed, the Viceroy has already signified

to his colleagues his intention of causing it to be examined after the war. Till that time comes the inquiry could not be pursued with advantage; but once the stress of war is over, and departments can estimate their permanent needs, the inquiry should be taken up probably with the assistance of experts from England. Our proposal is made without prejudice to the process of taking further Indians into the services. From whatever source the additional help is to be sought there can be no question of its acute necessity.

270. But a constitutional element of delay may be found in the character of the Government itself. Because
Inherent tendencies of an official Government it is bureaucratic it is naturally less anxious to move than a responsible Government. In the matters where Parliament does not affect it its duty is to its own conscience—or perhaps we should say to its successors in office—and not to any constituents. We should do well to associate with it a really representative assembly so as to ensure that in the comparative seclusion of its domicile in Delhi and Simla the wishes of the country are accurately and regularly presented to it and that its action is adequately criticized. In this way not merely shall we get a succession of stimuli from outside which would benefit the Government in India, but the Secretary of State in England will have the means of judging what view is taken in India of the actions of the Government, and so the modified measure of Home control which we propose will come to be exercised not merely in accordance with British views, but with regard also to the expressed views of those who represent constituencies in India. These are the considerations underlying the proposals which we put forward for changes in the structure of the Government of India both in its executive and legislative aspects.

271. We have explained already how the executive council of the Governor General is constituted and how
The Governor General's Executive Council. portfolios are allotted in it. Its changed relations with provincial governments will in themselves materially affect the volume of work coming before the departments, and for this reason alone some redistribution will be necessary. We would therefore abolish such statutory restrictions as now exist in respect of the appointment of members of the Governor General's Council so as to give greater elasticity both in respect of the size of the Government and the distribution of work. If it is desired to retain parliamentary control over these matters they might be embodied in statutory orders to be laid before Parliament.

272. Further, we propose to increase the Indian element in the executive council. We do not think it necessary
Increase in Indian element. to argue the expediency of enabling the wishes of India to be further represented in the Cabinet of the country. The decision of Lord Morley and Lord Minto to appoint one Indian member to the council marked an important stage in India's political development; and has proved of value in enabling the Govern-

ment to have first-hand acquaintance with Indian opinion. In recommending a second appointment we are only pursuing the policy already determined upon in respect of the public services. There exists, of course at present no racial prescription in the statute, nor do we propose that any should be introduced. There is even no formal guarantee that any appointment shall be made on the grounds of race. The appointment of Indian members will be made in the future as in the past as a matter of practice by the Crown on the recommendation of the Secretary of State; and we suggest the appointment of another Indian member as soon as may be.

273. We now come to the changes required in the Indian Legislative Council. Its existing composition we have already explained. No argument is needed to show that under present conditions 27 elected members, many of them returned by small class electorates, cannot adequately represent the interests of the entire country in the supreme assembly. Indeed, no council the composition of which is conditioned by the necessity of maintaining an official majority could possibly serve that purpose. We recommend therefore that the strength of the legislative council, to be known in future as the Legislative Assembly of India, should be raised to a total strength of about 100 members, so as to be far more truly representative of British India. We propose that two-thirds of this total should be returned by election; and that one-third should be nominated by the Governor General of which third not less than a third again should be non-officials selected with the object of representing minority or special interests. We have decided not to present to His Majesty's Government a complete scheme for the election of the elected representatives; our discussions have shown us that we have not the data on which to arrive at any sound conclusions. Some special representation, we think, there must be, as for European and Indian commerce and also for the large landlords. There should be also communal representation for Muhammadans in most provinces and also for Sikhs in the Punjab. There is no difficulty about direct election in the case of special constituencies. It is in respect of the general, or residuary, electorate, including therein the communal electorates for Muhammadans and Sikhs, that complexities present themselves. Our decided preference is for a system of direct electorates, but the immensity of the country makes it difficult; it may be impossible to form constituencies of reasonable size in which candidates will be able to get into direct touch with the electorates. Moreover, there is the further difficulty (which, however, presents itself in any system of constituencies) of the inequalities of wealth existing between the different communities. If constituencies are to be approximately even in size it may be necessary to concede a special franchise to the Muhammadans, who, taken as a whole, are poorer than the Hindus; and this means giving a vote to some Muhammadans who would not be entitled to vote if they were Hindus. That is an undesirable anomaly, to which we should prefer the anomaly of unequal constituencies; but on our present information we find it

impossible to say how great the practical difficulties of variation in size might be. Similar problems will present themselves in respect of constituencies for the elections to provincial councils. It is obviously desirable to deal on uniform lines with the electoral arrangements both in the provincial and Indian councils. As regards the former we have already recommended the appointment of a special committee to investigate questions of franchises and electorates; and to that body we would therefore also commit the task of determining the electorates and constituencies for the Indian Legislative Assembly. They may find it wholly impracticable to arrange for direct election. In that case, they will consider the various possible systems of indirect election. We are fully aware of the objections attaching to all forms of indirect election; but if the difficulties of direct election compel us to have recourse to indirect, we incline to think that election by non-official members of provincial councils is likely to prove far more acceptable to Indian opinion and, in spite of the smallness of the electoral bodies, certainly not open in practice to greater objection than any of the other alternative methods which have been from time to time proposed.

For reasons similar to those which we have given in the case of the provincial legislative councils we recommend that members of the Indian Legislative Assembly should not be designated "Honourable" but should be entitled to affix the letters M.L.A. to their names.

274. The suggestion we have made for the number of elected members was based on the calculation that the three presidencies would be represented by 11 members each; the United Provinces by 10, the Punjab and Bihar and Orissa by 7 each, the Central Provinces by 5, Burma by 3, and Assam by 2. We also think that in view of the importance of the Delhi province as the Imperial enclave and the seat of the central Government it should be represented by a member.

275. In respect of the non-official members to be nominated by the Governor General we advise that no hard-and-fast rule should be laid down. These seats should be regarded as a reserve in his hands for the purpose of adjusting inequalities and supplementing defects in representation. Nominations should not be made until the results of all the elections are known, and then they should be made after informal consultation with the heads of provinces. The maximum number of nominated officials will be two-ninths of the whole, and it will rest with the Governor General to determine whether he requires to appoint up to this maximum. The officials will, however, include the executive members of council, sitting not by appointment, but *ex officio*; and also some representation from the provinces. It may therefore not be possible for secretaries to the Government of India to continue to sit in the assembly; this may in itself be of advantage as decreasing the dislocation of administrative business during the session. It may, however, be necessary to allow the secretary to speak and vote on behalf of the member when occasion demands.

But for this purpose we think that a preferable alternative may be to appoint members of the assembly, not necessarily elected, nor even non-official, to positions analogous to those of parliamentary under-secretaries in England; and we advise that power be taken to make such appointments. We attach importance to the further proposal that official members of the assembly, other than members of the executive government, should be allowed a free right of speech and vote, except when the Government decides that their support is necessary. We think that this change of procedure will affect the tone of discussions very beneficially. We think that, for the reasons which we have given already in support of a similar recommendation in respect of the provincial councils, the president of the Legislative Assembly should be nominated by the Governor General. We do not propose that his choice should be formally limited, but it seems necessary that, at any rate for the present, the president should be designated from among the official members.

276. We began with the fundamental proposition that the capacity of the Government of India to obtain its will in all essential matters must be unimpaired. The institution of an assembly with a large elected majority confronts us with the problem, as in the case of the provinces, of enabling the executive government to secure its essential legislation and its supplies. Here also we have examined several possible expedients. In this instance, there can be no question of relying on legislation by superior authority. The only superior authority is Parliament, and Parliament is too far off and notoriously too preoccupied and not suitably constituted to pass laws for the domestic needs of India. It is true that the Governor General has the power of making temporary ordinances for certain emergent purposes. We propose that this power should be retained; its utility has been strikingly demonstrated during the present war. It merely provides, however, a means of issuing decrees, after private discussion in the executive council, and without opportunities for public debate or criticism; and normally it should be used only in rare emergencies. It would be unsuitable for our purpose. What we seek is some means, for use on special occasions, of placing on the statute book, after full publicity and discussion, permanent measures to which the majority of members in the Legislative Assembly may be unwilling to assent. We seek deliberately, when the purpose justifies us, to depart from popular methods of legislation; and it is obvious that no device which conforms to those methods can possibly serve our purpose. For this purpose we have come to the conclusion that we should employ the method now familiar to Indian institutions of maintaining such a number of votes, upon which the Government can in all circumstances rely, as to ensure the passage of the legislation that it requires. It is here alone, and only (as will be seen hereafter) for use in cases where it is obviously necessary, that we propose to perpetuate the official bloc.

We are seeking to provide for a period of transition ; for which purpose no novel expedient, such as multiplying the value of official votes, or calling in officials who have not taken part in the argument to record their votes, or of passing measures automatically after discussion, would be as easily understood, or as acceptable, as the continuance in modified form of the present system.

277. One suggestion which we considered was that we should follow the plan adopted in the provinces, and institute grand committees to which the Government's essential Bills should be referred. But the conditions of Indian legislation are different from those of provincial. Matters are more important, the Government's responsibility to Parliament is closer, and the affirmative power must be more decisively used. We feel also that there are advantages, both direct and incidental, in setting up a separate constitutional body, in which Government will be able to command a majority. We do not propose to institute a complete bicameral system, but to create a second chamber, known as the Council of State, which shall take its part in ordinary legislative business and shall be the final legislative authority in matters which the Government regards as essential. The Council of State will be composed of 50 members, exclusive of the Governor General, who would be president, with power to appoint a vice-president, who would normally take his place : not more than 25 will be officials, including the members of the executive council, and 4 would be non-officials nominated by the Governor General. Official members would be eligible for nomination to both the Legislative Assembly and the Council of State. There would be 21 elected members, of whom 15 will be returned by the non-official members of the provincial legislative councils, each council returning two members, other than those of Burma, the Central Provinces, and Assam, which will return one member each. Elected members returned to the Council of State would vacate any seats they occupied on the provincial council or the Legislative Assembly. The remaining six elected members are intended to supplement the representation which the Muhammadans and the landed classes will otherwise secure ; and also to provide for the representation of chambers of commerce. Each of these three interests should, we suggest, return two members directly to the Council of State. Bearing in mind the fact that among the members of the provincial legislative councils who will elect to the 15 seats there will be a proportion of Muhammadans, and assuming that in each of the bigger provinces each elector will be able as now to give both his votes to one candidate, we estimate that the composition of the Councils of State should comprise at least six Muhammadans, whether sitting by direct or indirect election or by the Governor General's nomination. Moreover, it is desirable that the four seats to be filled by direct election should be used so as to ensure that the Muhammadan and landed members should as far as possible be representative of the whole of India. Deficiencies

may occur in this respect in any one council but they should be corrected in elections to the subsequent council. For this reason the regulations for elections to the four seats should be framed by the Governor General in Council in such a way as to enable him to decide, after consideration of the results of the indirect elections, from what part of India, or possibly in what manner from India, generally the seats should be filled.

278. Inasmuch as the Council of State will be the supreme legislative authority for India on all crucial questions, and also the revising authority upon all Indian legislation, we desire to attract to it the services of the best men available in the country. We desire that the Council of State should develop something of the experience and dignity of a body of Elder Statesmen; and we suggest therefore that the Governor General in Council should make regulations as to the qualifications of candidates for election to that body which will ensure that their status and position and record of services will give to the council a senatorial character, and the qualities usually regarded as appropriate to a revising chamber. We consider that the designation "Honourable" should be enjoyed by the members of the Council of State during their tenure of office. In accordance with the proposals which we make hereafter for associating the Ruling Princes with the Government for the purpose of deliberation on matters of common concern it would be, as will be seen, the Council of State with which the Princes would be associated. It is desirable that as is the case with second chambers elsewhere, the lifetime of the Council of State should be longer than that of the assembly; and assuming that the life of the latter will be three years, we propose five years as the normal duration of each Council of State.

279. Let us now explain how this legislative machinery will work. It will make for clearness to deal separately with Government Bills and Bills introduced by non-official members. A Government Bill will ordinarily be introduced and carried through all the usual stages in the Legislative Assembly. It will then go in the ordinary course to the Council of State, and if there amended in any way which the assembly is not willing to accept, it will be submitted to a joint session of both Houses, by whose decision its ultimate fate will be decided. This will be the ordinary course of legislation. But it might well happen that amendments made by the Council of State were such as to be essential in the view of the Government if the purpose with which the Bill was originally introduced was to be achieved, and in this case the Governor General in Council would certify that the amendments were essential to the interests of peace, order, or good government. The assembly would then not have power to reject or modify these amendments, nor would they be open to revision in a joint session.

We have to provide for two other possibilities. Cases may occur in which the Legislative Assembly refuses leave to the introduction of

a Bill, or throws out a Bill which the Government regarded as necessary. For such a contingency we would provide that if leave to introduce a Government Bill is refused, or if the Bill is thrown out at any stage, the Government should have the power, on the certificate of the Governor General in Council, that the Bill is essential to the interests of peace, order, or good government, to refer it *de novo* to the Council of State; and if the Bill, after being taken in all its stages through the Council of State, was passed by that body it would become law without further reference to the assembly. Further, there may be cases when the consideration of a measure by both chambers would take too long if the emergency which called for the measure is to be met. Such a contingency should rarely arise; but we advise that, in cases of emergency, so certified by the Governor General in Council, it should be open to the Government to introduce a Bill in the Council of State, and upon its being passed there merely to report it to the assembly.

280. We come now to non-official members' Bills. They would be introduced in whichever of the two chambers the mover sat and, on being carried there, would be taken to the other chamber and carried through that. In the case of a difference of opinion between the two bodies the Bill would be submitted to a joint session of both, and would either be finally rejected, or would be submitted for assent in the form in which it was there passed. It might, however, occur that a non-official member's Bill emerged from the assembly, whether originally introduced there or not, in a form which the Government thought prejudicial to peace, order, and good government. In this case, also, if the Governor General in Council were prepared to give a certificate in the terms already stated, the Bill would go or go back to the Council of State and could only become law in the form there finally given to it.

281. Our object has thus been where possible to make assent by both bodies the normal condition of legislation, but to establish the principle that in the case of certificated legislation the will of the Council of State should prevail, and in other legislation the will of the non-official members of both chambers taken together should prevail. In time to come, if and when the procedure by certification becomes unnecessary, the Council of State will become, as in other countries, a purely revising chamber, and differences between the two chambers will be adjusted by joint sessions. We considered the alternative course of leaving non-certificated Bills wholly to the Legislative Assembly, and using the Council of State only for certificated Bills. We dismissed this plan, first, because we regard it as important to establish what may hereafter become a normal second chamber; secondly, because we were unwilling to exclude the non-official members of the Council of State, to which we wished to attract the best men available, from all share in the passing of non-certificated business, and all opportunities of introducing Bills. Finally, our own proposal which gives the Government

an opportunity of amending a private member's Bill, instead of leaving the Government with no alternative but to veto a measure some features of which it may disapprove, affords the means by which beneficial changes in the law may result from non-official initiative. It will, we believe, be found to be not the least advantage of the institutions which we propose that by allowing questions to be freely discussed, first in a popular assembly and then reviewed by a revising body in which Government is in a position to exert as little influence as it likes, the course of social legislation to which our Indian advisers attach particular importance will be materially promoted. For if Government is assured that projects of social reform have the support of the Indian element in two chambers so differently constituted it will have the less reason for offering any obstacle to their progress.

282. The objection may be raised to our proposal for joint sessions that the non-official members of the assembly will be swamped by the official members of the Council of State in combination with the official members of the assembly. We think that this criticism will be disposed of by further consideration of the figures. The assembly will consist of, let us say, at least 78 non-official, and at most 22 official, members. The Council of State will consist of 25 non-officials, and at most 25 officials, because the whole number of officials in either chamber need not necessarily be appointed. In a full joint session, however, there might be 103 non-officials, and about 40 officials, because the members of the Governor General's Executive Council will be members of both bodies. But we have provided that the official members of the assembly may also be nominated to membership of the Council of State, and we imagine that this will be the rule rather than the exception. It would be difficult, and also inadvisable, from the point of view of departmental business, to bring 40 official members to the meetings of the legislative bodies, and we conceive therefore that, including the members of the executive council, the official element in a joint session might be taken at 30. Moreover, in debates on a non-certificated Bill, official members would be left free to vote and speak as they please, and therefore should not be expected to act as a solid body. In these calculations we have classed together the nominated non-officials and the elected members of both chambers. But the 15 nominated non-officials will be nominated to represent particular interests, and we see no reason to anticipate that they will act less consistently than they have done in the past with their elected fellow-representatives.

283. The Governor General should in our opinion have power at any time to dissolve either the Legislative Assembly or the Council of State, or both these bodies. It is perhaps unnecessary to add that the Governor General and the Secretary of State should retain their existing powers of assent, reservation, and disallowance to all Acts of the Indian legislature. The present powers of the Governor General in

Powers of dissolution,
assent, etc.

Council under section 71 of the Government of India Act, 1915, to make regulations proposed to him by local Governments for the peace and good government of backward tracts of territory should also be preserved, with the modification that it will in future rest with the head of the province concerned to propose such regulations to the Government of India.

284. Fiscal legislation will, of course, be subject to the procedure which we have recommended in respect of Government Bills. The budget will be introduced in the Legislative Assembly but the Assembly will not vote it. Resolutions upon budget matters and upon all other questions whether moved in the Assembly or in the Council of State will continue to be advisory in character. We have already given our reasons for holding that it is not feasible to give resolutions a legal sanction. But since resolutions will no longer be defeated in the assembly by the vote of an official majority they will, if carried, stand on record as the considered opinion of a body which is at all events more representative than the legislative council which it displaced. That in itself will mean that the significance of resolutions will be enhanced; there will be a heavier responsibility upon those who pass them, because of their added weight; and the Government's responsibility for not taking action upon them will also be heavier. It will be therefore incumbent on Government to oppose resolutions which it regards as prejudicial with all the force and earnestness that it can command in the hope of convincing the assembly of their undesirability. There must, however, remain to the Government power not to give effect to any resolution which it cannot reconcile with its responsibility for the peace, order, and good government of the country.

285. We wish to apply the procedure of standing committees, described in the last chapter, as far as may be to both portions of the Indian legislature. The committees would be drawn jointly from the Assembly and the Council of State. We do not overlook the difficulties entailed by the nature of many of the subjects with which the central Government is concerned, and also by the comparative infrequency with which, owing to considerations of distance, such committees can assemble. The fact that many matters of ordinary internal administration will in future be left to provincial Governments also limits the scope of utility of standing committees in the central legislature. We would leave it to the Government of India to decide with what departments standing committees can be associated; and to the member in charge to decide what matters can be referred to the committee. Our idea is that the non-official members of the Assembly and Council of State might elect by ballot in proportion to their respective strength two-thirds of the members of each committee while Government nominates the remaining one-third. It is obvious that these committees cannot play such an important part in the work of the Government as the similar committees which we have

suggested in the provinces. It will be difficult to obtain their assistance in practice, except during the session or immediately before and after it, but we think there should be no difficulty ordinarily in obtaining their views on important new projects, whether legislative or administrative. Their functions might be determined by regulations to be made by the Governor General in Council.

286. A few subsidiary matters of minor importance remain to be dealt with. We think that any member of the Assembly or the Council of State (and not merely the member who asks the original question) should have the right to put supplementary questions. The control of questions in both bodies should be regulated on lines similar to those which we have suggested in the case of provincial councils; and the question of restrictions upon resolutions should also be similarly treated. But apart from matters affecting the powers of the legislature we think that the rules of procedure for both bodies should be made in the first instance by the Governor General in Council. The Assembly and the Council of State should both have power to modify their rules with the sanction of the Governor General. The approval of the Secretary of State and Parliament should not be required.

287. We have a further recommendation to make. We would ask that His Majesty may be graciously pleased to approve the institution of a Privy Council for India. From time to time projects of this kind have been mooted and laid aside; but with the changed conditions we believe that such a body would serve a valuable purpose and do useful work. India for all its changing ideas is still ready to look up with pride and affection to any authority clothed with attributes that it can respect and admire. Appointments to the Privy Council should be made by the King-Emperor, and for life, which would ensure that they would be valued as a high personal distinction. Officials and non-officials, both from British India and the Native States, would be eligible; but it would be necessary to confine appointment to those who had won real distinction, or had held or were holding the highest offices, such as Members of the Governments, Ruling Princes, Members of the Council of State and High Court Judges. Indian Privy Councillors should enjoy the title of "Honourable" for life. The Privy Council's office would be to advise the Governor General when he saw fit to consult it on questions of policy and administration. It is our hope that for one purpose or another Committees of the Council comparable to those of the Privy Council in England, which have done such valuable work in connexion with industrial and scientific research and education, will be appointed.

288. At the end of the last chapter we recommended that ten years after the institution of our reforms, and again at intervals of twelve years thereafter, a com-
Periodic commission.

mission approved by Parliament should investigate the working of the changes introduced into the provinces, and recommend as to their further progress. It should be equally the duty of the commission to examine and report upon the new constitution of the Government of India, with particular reference to the working of the machinery for representation, the procedure by certificate, and the results of joint sessions. The commission will, doubtless, if they see fit, have proposals to make for further changes in the light of the experience gained. There is no need for us at this stage to attempt to anticipate the line which their recommendations may take.

289. Let us now sum up our proposals. We seek to create an enlarged Legislative Assembly with an elective majority; to reserve to the decision of the Council of State, in which the Government will command a bare majority, only those measures which it must have power to carry in the discharge of its continuing responsibility for the good government of the land; to restrict the official *bloc* to the smallest dimensions and the least frequent activity that is compatible with the same guiding principle; to institute a Privy Council of India as a means of honouring and employing ripe wisdom or meritorious service; to admit a second Indian member into the innermost counsels of the Indian Government. It is true that we do not offer responsibility to elected members of the Legislative Assembly; and that we define the sphere in which the Government will defer to the wishes of the elected members not by specific directions in a schedule, as we have done in the provinces, but by a general prescription which we leave the Government to interpret. But we have carried the advance right up to the line beyond which our principles forbid us to go; and by confining the use of the special machinery of autocracy to essential cases where a public declaration of necessity must be made we have gone definitely beyond the position implied in the Morley-Minto reforms. If there be among Indian politicians those who are impatient of any delay that they encounter on their way to occupy the citadel they may remind themselves how often before in Indian history has it been said '*Hanoz Dilli dur ast*'. Impatience we cannot, and ought not, to seek to satisfy. What we have done is to afford Indians a fair share in the government of the entire country, while providing in the provinces the means for them to attain the stage of responsible government to which the beginning of responsibility for the Government of India itself must be the sequel.

II.—THE INDIA OFFICE.

290. It now remains for us to examine the effect of our proposals upon the position of the Secretary of State for India in Council and the control which Parliament exercises through him over all the Governments in India. We have already explained how the Act

Powers of the Secretary of State.

of 1858, which brought the East India Company to an end, set up the Secretary of State with the Council of India to assist him, as the Minister of State responsible for Indian affairs. In the language of the existing law the Secretary of State has power to "superintend, direct and control all acts, operations and concerns which relate to the Government or revenue of India and all grants of salaries, gratuities and allowances and all other payments and charges, out of or on the revenues of India". Again, section 21 of the Government of India Act, 1915, reads as follows:—"The expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council; and no grant or appropriation of any part of those revenues, or any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India".

291. It has been, of course, impossible in practice that the affairs of a vast and remote Asiatic dependency should be administered directly from Whitehall; and, as we have seen, large powers and responsibilities have always been left by the Secretary of State to the Government of India and again by the Government of India to local Governments. At the same time, the Secretary of State's responsibility to Parliament has set very practical limits to the extent of the delegation which he can be expected to sanction. Now that His Majesty's Government have declared their policy of developing responsible institutions in India we are satisfied that Parliament must be asked to assent to set certain bounds to its own responsibility for the internal administration of that country. It must, we think, be laid down broadly that, in respect of all matters in which responsibility is entrusted to representative bodies in India, Parliament must be prepared to forgo the exercise of its own power of control, and that this process must continue *pari passu* with the development of responsible government in the provinces and eventually in the Government of India. The process should, we think, begin with the conclusions arrived at on the report of the committee which will consider the question of transferred subjects. Having taken their report and the views of the Government of India upon it into consideration the Secretary of State would, we imagine, ask Parliament's assent to his declaring by statutory orders which he would be empowered to make under the Act that such and such subjects in the various provinces have been transferred; and when Parliament has assented to such orders the Secretary of State would cease to control the administration of the subjects which they covered. The discussion of such matters by Parliament in future would be governed by the fact of their transfer. We appreciate the difficulties of the situation; but it must be recognized that it will be impossible for Parliament to retain control of matters which it has deliberately delegated to representative bodies in India. At the same time, it will be necessary to ensure that the

Delegation to the Government of India. In transferred matters.

Secretary of State is in a position to furnish Parliament with any information upon Indian affairs that it desires; and nothing in our proposals should be taken as intended to impair the liability of the Government of India and the provincial Governments to furnish such information to the India Office at any time.

292. So far we have had in mind only the transferred subjects
 And in reserved matters. But even as regards reserved subjects, while there cannot be any abandonment by Parliament of ultimate powers of control, there should, as we have indicated already, be such delegation of financial and administrative authority as will leave the Government of India free, and enable them to leave the provincial Governments free, to work with the expedition that is desirable. On the purely financial side this delegation will involve an examination of the various codes and other regulations and orders, which we have already described as limiting too straitly the power of the authorities in India. This matter is already being examined in India, and the Government of India will make proposals to the Secretary of State in Council. On the purely administrative side there are as we have seen no general orders, like those embodied in the financial codes, prescribing the matters for which the Secretary of State's sanction is required. But in an earlier chapter we gave an illustrative list of the subjects regarded as falling within that category; and, generally speaking, it is well understood that all important new departures require his previous approval. The drawing of the line between the important and unimportant can only be left to the common sense of the authorities in India and at Home. But we are agreed that a wider discretion ought henceforth to be left to the Governor General in Council; and that certain matters which are now referred Home for sanction might in future be referred merely for the information of the Secretary of State in Council. The exact definition of these particular matters must also be pursued at greater leisure and the Government of India will take this question in hand. It will follow in such cases in future that when the policy of the executive Government in India is challenged Parliament must be asked to accept the explanation that in accordance with deliberate policy the Government of India have been given discretion in respect of the topic in question and that for this reason the Secretary of State is not prepared to interfere with what has been settled in India. It is not part of our plan to make the official Governments in India less amenable to the control of Parliament than hitherto. It must be for Parliament itself to determine the limits which it will set to the exercise of its own powers. On the other hand, intervention by Parliament may involve intervention by the Government of India in matters which otherwise would be recognized as of provincial concern. It will be distracting both to the Government of India and the provincial Governments if the operation of this principle of discretionary delegation is left either to the idiosyncrasies of Secretaries of State, or to the disposition of party forces in Parliament. We hope therefore that Parliament will assent

to facilitate the working of our reforms by a provision authorizing the Secretary of State, by rules to be laid before Parliament, to divest himself of control of the Government of India in some specified matters even although these continue to be the concern of the official Governments, and to empower the Government of India to do likewise in relation to provincial Governments. On large matters of policy in reserved subjects there can, of course, be no question of such delegation.

293. It will be seen that our proposals involve material alterations in the functions of the India Office; and in conformity with these we think that its organization should be reconsidered. This obviously can best be done by a committee sitting in London for the purpose. We propose that such a committee should be appointed forthwith. Without attempting to draft the terms of the reference to it we may suggest the main principles by which its deliberations should be guided. The India Office should in future be so organized as to discharge its functions as expeditiously as possible. Knowledge is an important element in coming rapidly to a right decision; and hence it is almost as essential now as it was in 1858 that the Secretary of State should be in a position to command expert advice. It is necessary that Parliament should be satisfied, and expedient that the Government of India should be satisfied, that the decisions conveyed in orders from the India Office have been arrived at after consideration of the advice of those whose knowledge of India is greater than that of the Secretary of State. But such advice needs to be informed with recent acquaintance with a changing India; and for this reason it will probably be well to modify the present constitution of the Council of India, and to arrange if not for the recruitment of the India Office staff from the Indian Civil Service, at least for some interchange of personnel between the staff of the India Office and the public services in India. Either method would have the advantage of enabling an Indian element to be employed at the India Office otherwise than on the Council of India.

294. But whatever control over Indian affairs the Secretary of State keeps he keeps in the name of Parliament; and it will not suffice to improve the agent so long as his relations with his principal are not what they should be. Of all the great departments of the State the India Office is at present the least concerned with Parliament. Parliamentary control cannot in fact be called a reality. Discussion is often out of date and ill-informed; it tends to be confined to a little knot of members, and to stereotyped topics; and it is rarely followed by any decision. We fully realize the other preoccupations of Parliament, and yet we are sure that means must be found of enabling it to take a real and continuous interest in India. No one would wish matters that ought to be discussed and settled in India to be debated and decided in Parliament; but there remain large questions of policy with which only Parliament can deal.