

PARLIAMENT SECRETARIAT

REPORTS OF COMMITTEES
OF THE
CONSTITUENT ASSEMBLY OF INDIA
(THIRD SERIES)



सत्यमेव जयते

1950

PRINTED IN INDIA BY THE MANAGER GOVT. OF
INDIA PRESS, NEW DELHI AND PUBLISHED BY
THE MANAGER OF PUBLICATIONS DELHI 1950

Price Rs. 4 annas 12 or 7sh. 6d.

CONTENTS

Pages.

1. Report of the <i>Ad Hoc</i> Committee on Citizenship Clause, dated the 1st May, 1947	1
2. Report of the North-East Frontier (Assam) Tribal and Excluded Areas Sub-Committee, dated the 28th July, 1947	2—45
3. Report of the Excluded and Partially Excluded Areas (Other than Assam) Sub-Committee, dated the 18th August, 1947	46—115
4. Report of the Committee to recommend suitable Constitutional changes in the administrative systems of the Chief Commissioners' Provinces, dated the 21st October, 1947	116—120
5. Report of the Expert Committee on the Financial Provisions of Union Constitution, dated the 5th December, 1947	121—171
6. Report of the Drafting-Committee, dated the 21st February, 1948	172—177
7. Report of the Advisory Committee on the subjects of North East Frontier (Assam) Tribal and Excluded Areas and Excluded and Partially Excluded Areas (Other than Assam), dated the 4th March, 1948	178—179
8. Report of the Linguistic Provinces Commission, dated the 10th December, 1948	180—239
9. Report of the Advisory Committee on the subject of certain political safeguards for minorities, dated the 11th May, 1949	240—245
10. Report of the Drafting Committee on the Draft Constitution of India as revised by that Committee, dated the 3rd November, 1949.	246—249

सत्यमेव जयते

REPORT OF THE AD HOC COMMITTEE ON CITIZENSHIP CLAUSE

We have, after full consideration, redrafted the clause relating to citizenship thus:—

“Every person born in the Union and subject to its jurisdiction; every person either of whose parents was, at the time of such person's birth, a citizen of the Union; and every person naturalised in the Union shall be a citizen of the Union.

Further provision regarding the acquisition and termination of Union citizenship may be made by the law of the Union.”

The inclusion in the clause of children born in the Union even of non-citizens, provided they are subject to Union jurisdiction, is a well-marked feature of Anglo-American public law. This principle has been accepted in the Indian Naturalization Act, 1926. There is some authority for the view that the children of visiting foreigners are on the same footing as the children of foreign ambassadors and would as such be regarded as non-citizens even if born in the Union, because of the qualifying phrase “and subject to its jurisdiction”. In any event, such cases are likely to be so few and far between that it is unnecessary in our opinion to make a special exception to exclude them from citizenship. As regards the possibility of double nationality, this is a well-known phenomenon, but it can be provided against by appropriate provisions in the Union Naturalization Law calling upon the person concerned to choose one or the other. For this purpose, the clause makes express provision for supplementary legislation terminating citizenship. We recommend that the clause as redrafted by us be adopted.

Clause 11 (b) does not, in our opinion, include conscription for military service. But the expression “forced labour” being very comprehensive, we think that the Explanation should be retained in order to make an exception in the case of compulsory service for public purposes. We suggest that instead of the word “Explanation”, the words “Provided that” be substituted, so that the amended clause will stand thus:—

“Traffic in human beings and *begar* and other similar forms of forced labour are prohibited, and any contravention of this prohibition shall be an offence:

Provided that nothing in this clause shall prevent the State from imposing compulsory service for public purposes without any discrimination on the ground of race, religion, caste or class.”

New Delhi,
May 1, 1947.

S. VARADACHARI,
TEK CHAND,
B. L. MITTER,
A. KRISHNASWAMI AYYAR,
K. N. KATJU,
B. R. AMBEDKAR,
K. M. MUNSHI.

REPORT OF THE NORTH-EAST FRONTIER (ASSAM) TRIBAL AND EXCLUDED AREAS SUB-COMMITTEE

FROM

The 28th July, 1947.

THE CHAIRMAN,
NORTH-EAST FRONTIER (ASSAM) TRIBAL & EXCLUDED AREAS SUB-COMMITTEE,

To

THE CHAIRMAN,
ADVISORY COMMITTEE ON FUNDAMENTAL RIGHTS, MINORITIES,
TRIBAL AREAS, ETC.,
CONSTITUENT ASSEMBLY OF INDIA,
COUNCIL HOUSE, NEW DELHI.

SIR,

I have the honour to forward herewith my Sub-Committee's report on the Tribal and Excluded Areas of Assam. The report has been drawn up by us after a tour of the Province which included visits to the Lushai Hills District, the North Cachar Hills Sub-Division, the Mikir Hills and the Naga Hills District. The Committee could not visit the Garo Hills District on account of bad weather and difficult communications and the Jowai Sub-division of the Khasi Hills District could not also be visited for the same reason. We however examined witnesses and representatives of the Garo Hills District at Gauhati and paid a visit also to certain Garo villages on and near the Goalpara road. At most of the places we visited, we had to be satisfied with a visit to the headquarters of the district or tract and with a visit to one or two villages in the neighbourhood. To visit places in the interior would have taken us a great deal more of time and delayed our report considerably. Representatives of the tribes however visited the headquarters, even from long distances, and on the whole we feel that we have been able to get into contact with all the important representatives of the hill people and to take their views on the future administration of the areas. We have also taken the views of the different political organisations in the province and recorded the evidence of officials.

2. Except for the Frontier Tracts and Tribal Areas, we co-opted two members from the tribes of each of the districts visited. The co-opted members, with the exception of Mr. Kezehol (representative of the Kohima section of the Naga National Council and himself an Angami) who submitted his resignation during the final meeting at Shillong, discussed the proposals and signed (subject to dissent in the case of Mr. Kheloushe & Mr. Aliba Imti) the minutes of the meeting.

3. In connection with the co-option of members we would like to mention the "District Conference" convened by the Superintendent of the Lushai Hills as an elected body purporting to be representative of the whole of the Lushai Hills. The election to this body which consisted of twenty chiefs and twenty commoners with the Superintendent himself as President was boycotted by the Mizo Union which was the only representative body of the Lushais at that time and clearly could not be regarded by us as representing more than a section of opinion, largely that of certain officials and chiefs controlled by them. Consequently the criticism that we co-opted members without consulting the Superintendent or his conference carries, in our opinion, no weight.

4. In the Naga Hills, the Committee had to face a similar situation in the sense that certain officials were influencing the extreme elements of the Naga National Council. Discussion of a number of points could not be carried on to the full extent on account of lack of agreement within the Naga National Council but we understand that on the occasion of the Governor's visit to Kohima, the more reasonable elements put forward their views. We find that our proposals not only contain the substance of these but go further in some respects. The resignation of Mr. Kezehol was due to the fact that his section of the Naga National Council was dissident. Our proposals correspond fully to the spirit of the resolution of the Naga National Council passed at Wokha in June 1946, and we feel confident that the majority of people in the Naga Hills District will find that our proposals go a long way towards meeting even their present point of view.

5. Our report (Volume I) is divided into two parts and the evidence forms a separate volume (Volume II). In the first part of our report we have given a bird's eye view of the areas as a whole, noting in particular their common features and giving the frame work of the scheme of administration recommended by us. In Part II a largely descriptive account of the different areas is given separately and we have mentioned their special features or needs.

6. We regret that our colleague Mr. Aliba Imti has not been able to attend the meeting to sign the report and hope that he will be able to attend the meeting of the Advisory Committee.

I have the honour to be,

Sir,

Your most obedient servant,

G. N. BARDOLOI,

Chairman,

*North-East Frontier (Assam) Tribal and Excluded Areas
Sub-Committee*

PART I

Introductory.—The Excluded and Partially Excluded Areas of Assam as scheduled by the Order-in-Council under the Government of India Act, 1935, are as follows:—

Excluded Areas.—

The North-East Frontier (Sadiya, Balipara and Lakhimpur).

Tracts—The Naga Hills District.

The Lushai Hills District.

The North Cachar Hills Sub-Division of the Cachar District.

Partially Excluded Areas.—

The Garo Hills District.

The Mikir Hills (in the Nowgong and Sibsagar Districts).

The British portion of the Khasi and Jaintia Hills District, other than Shillong Municipality and Cantt.

There is also an area to the east of the Naga Hills District known as the Naga Tribal Area the position of which is covered by the provisions of Section 311 (1) of the Government of India Act: The Tirap Frontier Tract which adjoins the Lakhimpur Frontier Tract has no defined boundary with Burma.

The Assam Tribal and Excluded Areas Sub-Committee is required to report on a scheme of administration for all these areas.

2. General Description—

(a) *The Frontier Tracts.*—The Schedule quoted above shows the North-East Frontier Tracts as excluded areas. In considering the list of areas to be excluded or partially excluded and making recommendations to H.M.G. in 1935 the Government of India wrote as follows:—

“Balipara, Sadiya and Lakhimpur are essentially frontier areas inhabited by tribes in an early stage of development. Balipara has no defined outer boundaries and extends to the confines of Bhutan and Tibet.” It will be seen that it was mentioned that Balipara has no definite outer boundaries but the position of Sadiya and Lakhimpur or the Tirap Frontier Tract was apparently the same. On the Tirap Frontier Tract in fact, the boundary with Burma has yet to be settled and all three regions include considerable areas of as yet virtually unadministered and only partially explored territory. The position of Balipara and Sadiya however differs from that of the Tirap Frontier in that there exists a boundary between Tibet and India. The facts are that in 1914 there was a tripartite convention with Tibet and China regarding the relations of the three Governments and in particular regarding the frontier between India and Tibet. The convention which contained an agreement about the frontier line between India and Tibet was ratified by the Tibetan authorities at Lhasa, and the line known as the MacMahon Line was indicated on a map of which a copy was given to the Lhasa Government which acknowledged it. The existence of this line was for a long time not known to the Assam Government, and on the other hand it was found that there was no notification under Section 60 of the Government of India Act, 1919, specifying the northern frontier of Assam, with the result that the MacMahon Line which is the frontier between Tibet and India is the legal boundary of Assam as well. In

practice the position is peculiar. Though the Governor of Assam is vested with authority over the Frontier Tracts, it is taken to be exercised, not by virtue of the provisions applicable to excluded areas of the Government of India Act, 1935, but as the agent of the Governor-General under Section 123 of the Act, *vide* notification No. I-X, dated the 1st April 1937 of the Government of India in the External Affairs Department (Appendix B). All the costs of administration of the tracts are also borne by the Central Government and the Central Government are inclined to treat them as tribal areas within the meaning of Section 311 of the Government of India Act. On the other hand, the local officials treat the area as consisting of two parts, one, which they call the Excluded Area and stretches up to the "Inner Line" boundary, and the Tribal Area, which by them is understood to mean the area beyond the "Inner Line" boundary. The "Inner Line" boundary is roughly along the foot of the hills and the area bounded by it is occupied by a somewhat mixed population, while the hill portions beyond it are purely inhabited by the tribes. This treatment again does not appear to be strictly justifiable in law though it may be convenient to think of the administered plains-portion of the area separately from the not fully administered hills. Since the frontier tracts are administered in practice by the Central Government as tribal areas, the absence of a notification under Section 60 of the Government of India Act, 1919, was regarded as an oversight. The position of these areas will be discussed further at a later stage, but it is clear from the foregoing that the Naga Tribal Area on the Eastern Frontier and the Balipara, Sadiya and Lakhimpur or Tirap Frontier Tracts on the North-Eastern Frontier fall under one category. The Balipara Frontier Tract which includes the Subansiri area is the tract over which there is as yet the smallest measure of control and administration. This tract and the Sadiya Frontier Tract are inhabited by tribes such as the Senjithonji, Daffa, Apa Tani, Momba (Balipara) the Abor, Mishmi, Hkampti (Sadiya). The Tirap Frontier contains Singphaws (who were originally Kachins) and a number of tribes classed as Naga, while the Naga Tribal Area is largely inhabited by Nagas of the Konyak group. The policy on these Frontiers is to establish administration and control over the whole area right up to the frontier, and a five-year plan has been sanctioned by the Government of India. This plan mostly covers the Sadiya and Balipara Tracts but a few schemes of the Naga Tribal Area are also included in it. A separate plan for the development of the latter is under consideration.

(b) *The Excluded Areas.*—The Excluded Areas of the Naga Hills District, the Lushai Hills District and the North Cachar Hills Sub-division fall within the second category of areas over which the Provincial Ministry has no jurisdiction whatsoever and the revenues expended in this area are not subject to the vote of the provincial legislature. The Naga Hills District is the home of a good number of tribes classed as Naga, such as Angami, Ao, Sema, Lhota. Adjoining it is the Naga Tribal Area in the eastern portion of which a good deal of head hunting still goes on. Though the tribes are all called Naga, they speak different languages and have differing customs and practices also. The Lushai on the other hand, though consisting of a number of clans, are practically one people and speak a common language. The Kuki in the North Cachar Hills and elsewhere are people of the same stock as Lushai or Mizo and speak the same language or a dialect. The Lushai Hills District except for an inappreciable number of Lakhers in the extreme south contains a uniform population. The North Cachar Hills, on the other hand, provide sanctuary for the Kachari, Naga, Kuki, Mikir and Khasi. The largest of the tribes here are the Kachari and the villages of the different tribes, are more or less interspersed.

(c) *Partially Excluded Areas*.—The third category is the *Partially Excluded Areas* consisting of the Khasi Hills District (British portion), the Garo Hills District and the Mikir Hills which fall in two districts, viz., Nowgong and Sibsagar, are administered by the Provincial Government subject to the powers of the Governor to withhold or apply the laws of the Provincial Legislature with or without modification, or to make special rules. The Khasis, incidentally, are the only one of the tribes in this area who speak a Monkhmer language; all the other tribes speak Tibeto-Burmese languages. Generally speaking, they inhabit the areas which bear their names but there are villages outside these districts which also contain some of the tribes. Thus, the Garo inhabit a number of villages in the Mymensingh district of Bengal in addition to many villages in the districts of Kamrup and Goalpara in Assam. The Khasi population is not only to be found in the British portion of the Khasi and Jaintia Hills, but the States (which comprise a fairly large area) round about Shillong are inhabited by the Khasis. These States, twentyfive in number, have the special feature that their chiefs are actually elected in a few cases by free election, though in the majority of cases the election is confined to a particular clan, the electorate consisting of Myntries of the clan only in some states, by a joint electorate of Myntries and electors elected by the people in general in others. The States have comparatively little revenue or authority and seem to depend for a good deal of support on the Political Officer in their relations with their peoples. There is a strong desire among the people of the States to “federate” with their brothers in the British portion, a feeling which the people on the British side reciprocate. Some of the Siems also appear to favour amalgamation but their idea of the Federation differs from that of the people in that the Chiefs seek a greater power for themselves than the people are prepared to concede to them.

Of the people in the *Partially Excluded Areas*, the Khasi are the most advanced and the Mikir the least. Unlike the Naga and the Lushai Hills these areas have had much more contact with people in the plains, situated as they are between the valleys of the Brahmaputra and the Surma. They have representatives in the provincial legislature who, in the case of the Garo and the Mikir Hills are elected by franchise of the Nokmas and the village headmen respectively.

3. Development.—As regards the degree of development and education in the *Excluded* and *Partially Excluded Areas*, the most backward areas, comparatively appear to be the Mikir and the Garo Hills, both of which are *Partially Excluded Areas*. The Frontier Tracts, parts of which must be inhabited by people with no contact with civilisation or education, are of course on a different footing. The Khasi Hills have probably benefitted by the fact that the capital of the province is situated in them. In the Garo Hills, Christian Missions have spread some education along with Christianity but the Mikir Hills have suffered from the fact that they are divided between two districts, Nowgong and Sibsagar, and thus nobody's child. Partial exclusion has in a way been responsible for their backwardness also, since both the Governor of the province and the Ministry can disclaim the sole responsibility for the area. The Sub-divisional Officers and Deputy Commissioners of these Hills moreover seem to have taken little interest in them and hardly any touring has been performed by officers in the Mikir areas. On the whole, however, the Hill Districts show considerable progress. The Khasi Hills have provided Ministers in the Provincial Government. The people of the Lushai Hills who have benefitted by the activities of the Missionaries among them cannot be said to be behind the people of the plains in culture, education and literacy. In literacy particularly they are in a better

position than a good number of the plains areas and the general percentage of literacy among them is about 13 per cent, while the literacy among men only is about 30 per cent. Among the Naga also may be found a number of persons of college education, though the district as a whole appears to be less advanced than the Lushai Hills. In the Naga Hills, the demand for education is keener in the Mokokchung Sub-division than in the Kohima Sub-division. In the North Cachar Hills, the development of the people has not been impressive and the Sub-division as a whole should be classed as more backward than other areas and comparable with the Mikir rather than the Lushai Hills. While education has made some progress in all these areas, the conditions of life and pursuit of non-agricultural occupations cannot be said to have reached the level attained in the plains, although the degree of intelligence necessary is undoubtedly available in most of the areas, even in the tribal areas. We were in fact impressed by the intelligence of the Abor and Mishmi, the Sherdukpen, the Hkampti and even the Konyak of the tribal area. The skill of many of the tribes in weaving and tapestry contains the elements of a very attractive cottage industry—at present articles are made largely for personal use—but agriculture is practically the only occupation, and with the exception of considerable areas occupied by the Angami in the Naga Hill under terraced and irrigated cultivation and the advanced cultivation in the Khasi Hills, the mode of agriculture is still the primitive one of *jhuming*. Portions of the forest are burnt down and in the ashes of the burnt patch the seeds are sown; the following year a new patch of forest is felled and cultivated and so on, the first patch perhaps being ready again for cultivation after three or four years. The *jhuming* patches develop a thick growth of bamboo or weeds and trees do not grow on them. Thus the method is destructive of good jungle. In certain parts, of course, conditions may be said to be unfavourable to the terracing of the hillsides and there is no source of water supply other than rainfall. In the Lushai Hills for instance comparatively few areas have the gradual slope which renders terracing easy; in the North Cachar Hills Sub-division, irrigation is difficult to arrange and the small hamlets occupied by the tribes cannot provide enough labour for terracing work. Attempts have however been made to introduce terracing and improved methods of cultivation as well as the growing of fruits, and there is little doubt that good progress will soon be feasible in these directions. A certain amount of political consciousness has also developed among the tribes, and we were much impressed by the demand of the Abor in the Sadiya Frontier Tract for representation in the provincial legislature. The idea of Government by the people through their chosen representatives is not a totally new conception to most of the hill people whose ways of life centre around the tribal and village councils, and what is required now is really an understanding of the mechanism and implications as well as the responsibilities of the higher stages of administration and the impracticability as well as the undesirable results of small groups of rural population being entrusted with too much responsibility. Generally speaking, it can be stated that all the excluded areas of the province, not taking into account at this stage the frontier and tribal areas, have reached the stage of development when they can exercise their votes as intelligently as the people of the plains. On the ground of inability to understand or exercise the franchise therefore, there is absolutely no justification for keeping the excluded areas in that condition any longer.

As regards the Frontier Tracts, not only has there been little education except in the fringes or plains portions, but administration has yet to be fully established over large tracts and the tribes freed from feuds or raids among themselves and from the encroachment and oppression of Tibetan

tax collectors. The removal of the trade blocks set up by these Tibetans on the Indian side of the MacMahon Line sometimes creates delicate situations. Thus the country is in many ways unripe for regular administration. Only when the new five-year programme has made good headway will there be an adequate improvement in the position. Even the village councils in these tracts appear to be ill-organised and there seems to be little material as yet for local self governing institutions though it may be possible to find a few people who can speak for their tribe. The plains portions are however on a different footing and the question of including them in the provincial administration needs careful examination. For example, we are of the view that *prima facie* there is little justification to keep the Saikhoaghat, the Sadiya plains portion and possibly portions of the Balipara Frontier Tract under special administration.

4. The Hill People's Views.—Though the Constituent Assembly Secretariat and we ourselves, issued a leaflet to provide information and create interest in the political future of India, the Constituent Assembly's functions and the objects of our tour, the Hill people, even of the Excluded Areas, were not found lacking in political consciousness. Perhaps not without instigation by certain elements, this consciousness has even instilled ideas of an independent status the external relations under which would be governed by treaty or agreement only. In the Lushai Hills District the idea of the Superintendent who constituted himself the President of the "District Conference" which he himself had convened (see para. 5 Part II) was that the District should manage all affairs with the exception of defence in regard to which it should enter into an agreement with the Government of India. A "Constitution" based on this principle was later drafted by the Conference. (The great majority of the Lushai however cannot be regarded as holding these views and it is doubtful if the District Conference represents the views of anybody other than certain officials and chiefs). In the Naga Hills, although the original resolution as passed by the Naga National Council at Wokha contemplated the administration of the area more or less like other parts of Assam, a demand was subsequently put forward for "an interim Government of the Naga people" under the protection of a benevolent "guardian power" who would provide funds for development and defence for a period of ten years after which the Naga people would decide what they would do with themselves. Here again it seems to us clear that the views of a small group of people, following the vogue in the Naga Hills of decisions being taken by general agreement and not by majority—gained the acceptance of the National Council, for little more purpose than that of presenting a common front. In other areas more moderate views prevail. In the Garo Hills the draft constitution asked for all powers of government including taxation, administration of justice, etc. to be vested in the legal council and the only link proposed with the Provincial Government was in respect of a few subjects like higher education, medical aid, etc. other than the subjects of defence, external affairs and communications which were not provincial subjects. In the Mikir Hills and in the North Cachar Hills, which are the least vocal and advanced of the areas under consideration, there would probably be satisfaction if control over land and local customs and administration of justice are left to the local people. The Khasi Hills proposals were for a federation of the States and British portions; otherwise the proposals were similar to those made for the Garo Hills. A feeling common to all of the Hill Districts is that people of the same tribe should be brought together under a common administration. This has led to a demand for rectification of boundaries. The Lushai want the Kuki of Manipur and other areas in their boundaries, the Naga want the Zemi areas of the North Cachar Hills included in their district and so on.

5. Political Experience.—Except for the Municipality of Shillong, there are no statutory local self-governing bodies in any of the Hill Districts. The partially excluded areas have elected representatives in the provincial legislature but in the Garo Hills the franchise is limited to the Nokmas and in the Mikir Hills to the headmen. Generally however, the tribes are all highly democratic in the sense that their village councils are created by general assent or election. Chiefship among certain tribes like the Lushai is hereditary (although certain chiefs have been appointed by the Superintendent) but among other tribes appointment of headmen is by common consent or by election or, in some cases, selection from particular families. Disputes are usually settled by the Chief or headman or council of elders. In the Naga Hills what is aimed at is general agreement in settling disputes. Allotment of land for *jhum* is generally the function of the Chiefs or headmen (except in the Khasi and Jaintia Hills) and there are doubtless many other matters pertaining to the life of the village which are dealt with by the chiefs or elders, but while this may form a suitable background for local self-government the tribes altogether lack experience of modern self-governing institutions. The "District Conference" of the Lushai Hills, the tribal council of the North Cachar Hills and the Naga National Council are very recent essays in organising representative bodies for the district as a whole and have no statutory sanction. While there is no doubt that the Naga, Lushai, Khasi and Garo will be able to manage a large measure of local autonomy, the North Cachar tribes and the Mikir may yet want a period of supervision and guidance.

6. The Special Features.—Whatever the capacity of the different councils or conferences to manage the affairs of the areas may be, the general proposals for the administration of these areas must be based upon the following considerations:—

- (a) the distinct social customs and tribal organisations of the different peoples as well as their religious beliefs. For instance, the Khasi and the Garo have a matriarchal system, the Lushai have hereditary chiefs, the Ao Naga have got the council of elders called 'tatar' which is periodically renewed by election. The laws of succession of the Lushai permit the youngest son of the family to succeed to the property of his father. Similarly, in the case of the Garo, the youngest daughter gets her mother's property and so on. Christianity has made considerable headway among the Lushai, Khasi and the Garo, but large numbers of the hill people still continue their own tribal forms of worship which some people describe as 'animism'.
- (b) the fear of exploitation by the people of the plains on account of their superior organisation and experience of business, the hill people fear that if suitable provisions are not made to prevent the people of the plains from acquiring land in the hill areas, large numbers of them will settle down and not only occupy land belonging to the hill people but will also exploit them in the non-agricultural professions. Thus, the hill people seem to attach special value to the present system of an 'Inner Line' to cross which non-tribals entering the area require a pass, and the provisions prohibiting non-tribals from settling down or carrying on business without the approval of the district-officer. It is felt that even industries should not be started in the hill areas by non-tribals because that might mean exploitation of the people and the land by the non-tribals. In addition to these main points there is the question of preserving their ways of life and language, and method of cultivation etc. Opinions are expressed that there could be

adequate protection in these matters only by transferring the government of the area entirely into the hands of the hill people themselves.

- (c) In the making suitable financial provisions it is feared that unless suitable provisions are made or powers are conferred upon the local councils themselves, the provincial government may not, due to the pressure of the plains people, set apart adequate funds for the development of the tribal areas. In this connection we invite a reference to the views expressed in the Assam Government's Factual Memorandum on p. 67 of Constituent Assembly Pamphlet Excluded & Partially Excluded Areas—I.

7. Provisions of 1935 Act.—The provisions of the Government of India Act are based on the principle that legislation which is passed by the Provincial Legislature is often likely to be unsuitable for application to the Hill Districts. The mechanism provided for "filtering" the legislation is therefore to empower the Governor of the Province to apply or not to apply such legislation. The full implications of the provisions of the Government of India Act are discussed in the Constituent Assembly pamphlets on "Excluded and Partially Excluded Areas" Parts I and II, and it is perhaps not necessary to discuss them exhaustively here. The main features of the provisions are that certain areas have been scheduled as excluded or partially excluded; it is possible for areas to be transferred from the category of excluded to the category of partially excluded by an Order-in-Council and, similarly, from the category of partially excluded to the category of non-excluded; legislation will not apply automatically to any such scheduled area even if it is a partially excluded area, but will have to be notified by the Governor who, if he applies them at all, can make alterations. The revenues for excluded areas are charged to the revenues of the Province and special regulations, which do not apply to the rest of the Province, may be made by the Governor in his discretion for excluded and partially excluded areas.

8. Future Policy.—The continuance or otherwise of exclusion cannot be considered solely from the point of view of the general advancement of an area. If that were so, all that would be necessary in the case of areas like the Lushai Hills which are considered sufficiently advanced would be to remove the feature of exclusion or partial exclusion. Such action may be suitable in the case of certain partially excluded areas in other parts of India. But in the Hills of Assam the fact that the hill people have not yet been assimilated with the people of the plains of Assam has to be taken into account though a great proportion of hill people now classed as plains tribals have gone a long way towards such assimilation. Assimilation has probably advanced least in the Naga Hills and in the Lushai Hills, and the policy of exclusion has of course tended to create a feeling of separateness.

On the other hand, it is the advice of anthropologists (see Dr. Guha's evidence) that assimilation cannot take place by the sudden breaking up of tribal institutions and what is required is evolution or growth on the old foundations. This means that the evolution should come as far as possible from the tribe itself but it is equally clear that contact with outside influences is necessary though not in a compelling way. The distinct features of their way of life have at any rate to be taken into account. Some of the tribal systems such as the system of the tribal council for the decision of disputes afford by far the simplest and the best way of dispensation of justice for the rural areas without the costly system of courts and codified laws. Until there is a change in the way of life brought about by

the hill people themselves, it would not be desirable to permit any different system to be imposed from outside. The future of these hills now does not seem to lie in absorption in that the hill people will become indistinguishable from non-hill people but in political and social amalgamation.

9. The Hill People's Land.—The anxiety of the hill people about their land and their fear of exploitation are undoubtedly matters for making special provisions; it has been the experience in other parts of India and in other countries, that unless protection is given, land is taken up by people from the more advanced and crowded areas. The question has already acquired serious proportions in the plains portions of Assam and the pressure of population from outside has brought it up as a serious problem which in the next few years may be expected to become very much more acute. There seems to be no doubt whatever therefore that the hill people should have the largest possible measure of protection for their land and provisions for the control of immigration into their areas for agricultural or non-agricultural purposes. It seems also clear that the hill people will not have sufficient confidence if the control on such matters is kept in the hands of the provincial Government which may only be too amenable to the pressure of its supporters. Even the Head of the State under the new Constitution will probably be an elected head, and even though he may be elected also by the votes of the hill people, they may still have the fear that he will give way to the pressure of the plains people on whose votes he may be largely dependent. The atmosphere of fear and suspicion which now prevails, even if it is argued that it is unjustified, is nevertheless one which must be recognised and in order to allay these suspicions and fears, it would appear necessary to provide as far as possible such constitutional provisions and safeguards as would give no room for them. Moreover, in the areas where no right of private property or proprietary right of the chief is recognised the land is regarded as the property of the clan, including the forests. Boundaries between the area of one hill or tribe are recognised and violation may result in fighting. Large areas of land are required for *jhum* and this explains in part the fear of the tribesman that its availability will be reduced if incursions by outsiders is permitted. In all the hill areas visited by us, there was an emphatic unanimity of opinion among the hill people that there should be control of immigration and allocation of land to outsiders, and that such controls should be vested in the hands of the hill people themselves. Accepting this then as a fundamental feature of the administration of the hills, we recommend that the Hill Districts should have powers of legislation over occupation or use of land other than land comprising reserved forest under the Assam Forest Regulation of 1891 or other law applicable. The only limitation we would place upon this is to provide that the local councils should not require payment for the occupation of vacant land by the Provincial Government for public purposes or prevent the acquisition of private land, also required for public purposes, on payment of compensation.

10. Forest.—As part of the question of occupation of land, the transfer of the management of land now classed as reserved forest has also been raised. We have recommended that the legislative powers of the Local Councils should not cover reserved forests. While accepting the need for centralised management of the forests, we would strongly emphasise that in questions of actual management, including the appointment of forest staff and the granting of contracts and leases, the susceptibilities and the legitimate desires and needs of the hill people should be taken into account, and we recommend that the Provincial Government should accept this principle as a part of its policy.

11. *Jhuming*.—We recommend further that the tribes should have the right of deciding for themselves whether to permit *jhum* cultivation, or not. We are fully aware of the evils of *jhum* cultivation that it leads to erosion, alteration of the rainfall, floods, change of climate etc. The tribes may not always be aware of these dangers but they have definitely begun to realise that settled or terraced cultivation is the better way. The Angami terrace now on a large scale and in most of the hills definite attempts at introducing settled cultivation are being made. The main difficulty however is the fact that all hill areas do not lend themselves to terracing equally well and in some parts, there may be a portion which could be terraced without prohibitive cost, or economically cultivated, by this method. Terracing means labour, a suitable hill side and the possibility of irrigation. When these are not all available it is obvious that the tribes cannot be persuaded to take up terracing and must continue *jhum*. While, therefore, we feel strongly that *jhuming* should be discouraged and stopped whenever possible, no general legislative bar can be imposed without taking local circumstances in the account. Besides there is a feeling among the tribes that *jhuming* is part of their way of life, and that interference with it is wanton, and done with ulterior motives. The wearing out of that feeling must come from within rather than as imposition from outside which may cause undue excitement among the tribes. We propose therefore that the control of *jhuming* should be left to local councils who, we expect, will be guided by expert advice.

12. Civil and Criminal Courts.—On the principle that the local customary laws should be interfered with as little as possible and that the tribal councils and courts should be maintained we recommend that the hill people should have full powers of administering their own social laws, codifying or modifying them. At present the Code of Criminal Procedure and the Civil Procedure Code are not applicable to the hill districts though officials are expected to be guided by the spirit of these laws. In practice, criminal cases, which are not of a serious nature like murder and offences against the State, are left to the tribal councils or chiefs to be dealt with in accordance with custom. Usually offences are treated as matters for the payment of compensation and fines are inflicted. There appears no harm and a good deal of advantage in maintaining current practice in this respect and we recommend accordingly that all criminal offences except those punishable with death, transportation or imprisonment for five years and upwards should be left to be dealt with in accordance with local practice and that so far as such offences are concerned the Code of Criminal Procedure should not apply. As regards the more serious offences punishable with imprisonment of five years or more we are of the view that they should be tried henceforth regularly under the Criminal Procedure Code. This does not mean that tribal councils or courts set up by the local councils should not try such cases and we contemplate that wherever they are capable of being empowered with powers under the Criminal Procedure Code this should be done. As regards civil cases (among the tribes there is little distinction between criminal and civil cases) we recommend that except suits arising out of special laws, all ordinary suits should be disposed of by the tribal councils or courts and we see no objection to the local councils being invested with full powers to deal with them, including appeal and revision. In respect of civil and criminal cases where non-tribals are involved, they should be tried under the regular law and the Provincial Government should make suitable arrangements for the expeditious disposal of such cases by employing Circuit Magistrates or Judges.

13. Other Local Self Government.—As regards such matters as primary schools dispensaries and the like which normally come under the scope of local self-governing institutions in the plains it is needless for us to say

that the Hill Districts should get all such powers and except in the North Cachar Hills and the Mikir Hills, we are of opinion that the Hill People will be able to take over control of such matters without much difficulty. With a view to providing some training and thereby smoothening the transition, the Chairman of our Sub-Committee has already taken up the question of establishment of councils with powers of local boards. The difference between the councils we contemplate for the Hill Districts and Local Boards will already have been clear from the foregoing paragraphs. It is proposed to entrust these councils with powers of legislation and administration over land, village forest, agriculture and village and town management in general, in addition to the administration of tribal or local law. Over and above these matters the tribes are highly interested in education and feel that they should have full control over primary education at least. We have considered this question in all its aspects and feel that the safe policy to follow in this matter is to leave it to the local councils to come to a decision on the policy to be followed. We recommend that primary education should be administered by the Local Councils without interference by the Government of Assam. The Assam Government will however always be available to provide such advice and assistance as the Local Councils may require through its Education Department particularly with reference to the linking up of primary with secondary education. As regards secondary school education we do not consider that the Hill People in general are able to look after this subject themselves nor do we consider that this stage should be left without some integration at least with the general system of the Province. There is of course no objection to Local Council being made responsible for the management of secondary schools where they are found to have the necessary material. But we consider that no statutory provision for this is necessary and that it should be open to the Council and the Government of Assam by executive instructions to make the necessary arrangements. The Local Councils will have powers of management in all other matters usually administered by local boards and we consider that on account of the special circumstances in the hills the councils should have powers to make their own administrative regulations and rules. We expect however that in all matters, particularly those involving technical matters like the management of dispensaries or construction of roads, the Local Councils and their staffs will work under the Executive guidance of the corresponding Provincial Department.

For the Mikir and the North Cachar Hills, we recommend that the necessary supervision and guidance should be provided for a period of six years which we expect will be the term of two councils by the appointment of the District or Sub-Divisional officer, as the case may be, as *ex-officio* President of the Council with powers, subject to the control of the Government of Assam, to modify or annul resolutions of the Council and to issue instructions as he may find necessary.

14. Finance.—(a) *Powers of the Council.*—The next question we propose to consider is finance. A demand common to the Naga Hills, the Khasi and Jaintia Hills, the Garo Hills and the Lushai Hills is that all powers of taxation should vest in the National Councils. The National Conference of the Garo and of the Khasi and Jaintia Hills suggested a contribution to the provincial revenues or a sharing of certain items. If this were accepted even the Centre would have no powers to levy finances in these areas. Suggestions regarding contribution to provincial revenues are obviously based on the assumption that the district, in addition to what it needs for its own expenditure, will have a surplus to make over to the Provincial Government. In the case of the Garo Hills, it was suggested that the abolition of zamindari rights in that area would result in a considerable augmentation of the revenues of the district which would then be able to spare a certain sum to the Provincial Government, and

generally the idea seems to be that given sufficient powers the Districts will be able to increase their revenues by exploitation of forests, mineral and hydro-electrical potentialities. Not only do some of the districts feel that they will have plenty of money in due course but the demand for all powers of taxation is based to a large extent on the fear that if the Provincial Government has those powers they may not get a fair deal and there may be diversion of money to other districts. Districts which, on the other hand feel that they do not command potential sources of revenue or at least realise that the development of the resources will take time during which they remain deficit can only make a vague demand for allocation of funds from a benevolent Province or Centre to supplement local resources.

The question of finance and powers of taxation in an atmosphere of suspicion and fear is not an easy one. Any surplus district is likely to examine the provincial expenditure with a jealous eye to find out whether it gets a good share of expenditure for its own benefit or not. The extreme case is the expectation or demand that all the revenues derived from a particular district must be spent within that district itself. It is obvious however that where different districts are functioning under a common Provincial Government, the revenues of the whole area become diverted to a common pool from which they are distributed to the best possible advantage of the Province as a whole. Should all powers of taxation and appropriation of revenues be placed in the hands of the hills districts, the plains districts will not fail to make a similar demand, and if they do, there would be little justification to refuse it to them. The concession of such a demand to the various districts virtually amounts to breaking up the provincial administration. Besides, giving unregulated powers of taxation in general to small units is undesirable as it would result in different principles, perhaps unsound principles, being adopted in different places for purposes of taxation and in the absence of co-ordination and provincial control, chaos is more likely than sound administration. Further it is obvious that a local council and a local executive would be much more susceptible and amenable to local pressure and influence than either the Provincial Government or its executive and will therefore not find it possible to undertake measures of taxation which the Province as a whole can. Even if taxes can be adequately resorted to by the local council, the proposal that an appropriation could be made for the provincial revenues does not sound practicable, for what the quantum of that will be is to be determined only by the National Council and it is quite obvious that the Council will decide the quantum from the point of view of its own need rather than the needs of the Province as a whole. The areas which feel that they have large potential sources of revenue must not forget that their demands for educational and other development are also very large and expanding. Various other factors such as the efficiency of tax collection and the cost of collecting staff have to be taken into consideration and we are of the view that the only practicable way is to allocate certain taxes and financial powers to the Councils and not all powers of taxation. Accepting this conclusion then we can consider what powers they should have. It goes without saying that they should have all the powers which local bodies in a plains district enjoy and we recommend that in respect of taxes like taxes on houses, professions or trades, vehicles, animals, octroi, market dues, ferry dues and powers to impose cesses for specific purposes within the ambit of the Councils, they should have full powers. We expect that the Councils will seek the advice of the Provincial Government in exercising these powers but in view of the democratic spirit and nature of tribal life, we do not consider that any control by the Provincial Government which is prescribed by statute is necessary. In addition we

would recommend powers to impose house tax or poll tax, land revenue (as land administration is made over to the Councils), levies arising out of the powers of management of village forest, such as grazing dues and licences for removal of forest produce.

(b) *Provincial Finance*.--There is no doubt that for some time to come the development of the Hills must depend on the rest of the province and they will be regarded as "deficit areas". As their development must be regarded as a matter of urgency considerable sums of money will be required but it is equally certain that measures of development are needed in other districts also and the claims of the Hills will not find a free field. The expenditure on the excluded areas has so far been a non-voted charge on the provincial revenues but unless it is provided in the Constitution that sums considered necessary by the Governor for the Hills will be outside the vote of the legislature we have to consider how the provision of adequate revenues can be secured. In this connection, we would point out the admission in the Factual Memorandum* received from the Government of Assam that while the excluded areas have benefited by the provision in the Government of India Act regarding them, the partially excluded areas in respect of which the funds are subject to the vote of the legislature have suffered greatly. In particular, the position of the Mikir Hills seems to be a bad example. Here, only a small proportion of the revenue derived from the area which contains rich forests is utilised in the district and the position in respect of provision of schools, medical facilities, etc., is unsatisfactory. We have noted the views of witnesses from the various political organisations that there is a lot of goodwill among the plains people towards the tribes but we feel that a more concrete provision is necessary as practical administration must be taken into account. It is admitted all round that the development of the hills is a matter of urgency for the province as a whole and there should therefore be a good measure of support for a specific provision.

Coming to the actual provision to be made, it has been suggested in some quarters that the revenue to be spent within a Hill District should be earmarked by provision in the Constitution and should form a definite proportion of the revenue of the Province. This, in our opinion, is an impracticable proposition since any statutory ratio is in variable for a number of years and there are no simple considerations on which it can be based. If it is based on the population, it is obvious that the expenditure would be totally inadequate, for the hill areas are generally sparsely populated. On the other hand, if a certain stage of development has been reached, the provision of funds on the basis of area may amount to pampering the tracts, while revenue is needed elsewhere. We have no doubt that the fixation of a rigid ratio by statute would not be suitable for the Provincial Government to work on and may not be in the interests of the Hills themselves. We feel that placing the sums outside the vote of the legislature is likely to be distasteful to the Legislature and contrary to the democratic spirit and proceed therefore to consider an alternative.

It appears to us that the main reason why the needs of the Hills are apt to be overlooked is due to the clamour of more vocal districts and the facts that there is little attention to or criticism of, the provisions made for the Hills, which in the case of voted items are merged in general figures. If therefore a separate financial statement for each such area showing the revenue from it and the expenditure proposed is placed before the legislature, it would have, apart from the psychological effect, the advantage that it would draw attention specifically to any inadequacy and

* P 67 Excluded and partially Excluded Areas—I.

make scrutiny and criticism easy. It can of course be objected that criticism may be ignored and that the separate statement may therefore not serve any really useful purpose, but we nevertheless recommend the provision of a separate financial statement as likely to fulfil its purpose. We also recommend that the framing of a suitable programme of development, should be on the Government of Assam, either by statute or by an Instrument of Instructions, as an additional safeguard.

(c) *Central Subventions.*—While the Province may be expected to do its best to provide finances to the limit of its capacity, it seems to us quite clear that the requirements of the Hills Districts, particularly for development schemes, are completely beyond the present resources of Assam. Though the Districts are more developed than the Frontier Tracts in respect of which the Central Government has recognised the need for special grants for development, the position of the Hill Districts in comparison with the plains districts is not radically different. The development of the Hill Districts should for obvious reason be as much the concern of the Central Government as of the Provincial Government. Bearing in mind the special position of this province in respect of sources of central revenue, we consider that financial assistance should be provided by the Centre to meet the deficit in the ordinary administration of the districts on the basis of the average deficit during the past three years and that the cost of development schemes should also be borne by the Central Exchequer. We recommend statutory provisions accordingly.

(d) *Provincial Grants for the Local Councils.*—Some of our co-opted Members have expressed the apprehension that the sources of revenue open to them may not provide adequate revenue for the administration of the District Council, particularly where there are Regional Councils. We have not made a survey of the financial position of the new councils and their requirements in the light of the responsibilities imposed on them but we recognise their claim for assistance from general, provincial revenues to the extent that they are unable to raise the necessary revenue from the sources allotted to them for the due discharge of their statutory liabilities.

15. Control of Immigration.—The Hill People, as remarked earlier, are extremely nervous of outsiders, particularly non-tribals, and feel that they are greatly in need of protection against their encroachment and exploitation. It is on account of this fear that they attach considerable value to regulations like the Chin Hills Regulations under which an outsider could be required to possess a pass to enter the Hill territory beyond the Inner Line and an undesirable person could be expelled. They feel that with the disappearance of exclusion they should have powers similar to those conferred by the Chin Hills Regulations. The Provincial Government, in their view, is not the proper custodian of such powers since they would be susceptible to the influence of plains people. Experience in areas inhabited by other tribes shows that even where provincial laws conferred protection on the land they have still been subjected to expropriation at the hands of money lenders and others. We consider therefore that the fears of the Hill People regarding unrestrained liberty to outsiders to carry on money lending or other non-agricultural professions is not without justification and we recognise also the depth of their feeling. We recommend accordingly that if the local councils so decide by a majority of three-fourths of their members, they introduce a system of licensing for money-lenders and traders. They should not of course refuse licences to existing money-lenders and dealers and any regulations framed by them should be restricted to regulating interest, prices or profit and the maintenance of accounts and inspection.

16. Mines and Minerals.—The present position is that except in relation to the Khasi States all powers are vested in the Provincial Government. The hill people strongly desire that revenues accruing from the exploitation of minerals should not go entirely to the Provincial Government and that their Council should be entitled to the benefits also. In order to ensure this they demand that control should be vested in them in one way or another. We have considered this carefully keeping particularly in mind that the Khasi Hill States are now entitled to half the royalties from minerals and feel that the demand of the hills should be met, not by placing the management in their hands, but by recognising their right to a fair share of the revenue. The mineral resources of the country are limited and it is recognised by us that the issue of licences and leases to unsuitable persons is likely to result in unbusiness like working and devastation. We consider that the best policy is to centralise the management of mineral resources in the hands of the Provincial Government subject to the sharing of the revenue as aforesaid and also to the condition that no licences or leases shall be given out by the Provincial Government except in consultation with the local Council.

17. Legislation.—The position under the Government of India Act, 1935, has already been described. It has been argued in some quarters that no provincial legislation should be applicable to the hills except with the approval of the Hill Council. This, we consider, is a proposition which cannot be acceded to without reservations. It is true that no legislation is now applicable without a notification by the Governor but the Governor in practice would apply the legislation unless there is a reason why it should not be applied, while the Council would probably be guided by other considerations. There are many matters in which the legislature has jurisdiction which has nothing to do with special customs in the hills and to provide that such legislation should not apply directly would only amount to obstruction or delaying the course of legislation which ought to be applied. It may also frustrate the application of a uniform policy through the whole province and subject everything to the limited vision of a local council. The Hill Districts will of course have their representatives in the provincial legislature and we feel that a bar should be placed only in the way of provincial legislation which deals with subjects in which the Hill Councils have legislative powers or which are likely to affect social customs and laws. We consider therefore that there is no need for a general restriction and we have provided accordingly for limited restriction in clause L of Appendix A to this Part. We have also included in this draft a clause concerning the drinking of rice-beer which is very much a part of the hill people's life. We feel that the Council should have liberty to permit or prohibit this according to the wishes of the people. We would draw attention to the fact that the rice-beer (Zu or Laopani) is not a distilled liquor and that its consumption is not deleterious to the same extent as distilled liquor consumed by tribes in other areas.

18. Regional Councils.—The conditions obtaining in the Naga Hills and the North Cachar Hills, in particular, need special provision. The Naga Hills are the home of many different tribes known by the general name of Naga; in the North Cachar Hills, there are Naga, Cachari, Kuki, Mikir and some Khasi or Synteng. Other Hills also contain pockets of tribes other than the main tribe. The local organisations referred to earlier have themselves found the need for separate Sub-Councils for the different tribes and the conditions are such that unless such separate councils are provided for the different tribes may not only feel that their local autonomy is encroached upon but there is the possibility of friction also. We have therefore provided for the creation of Regional Councils, if the tribes so desire. These Regional Councils will have powers limited to their customary law and management of their land and villages. We also

propose that the Regional Councils shall be able to delegate their powers to the District Councils.

19. Emergency Provisions.—The picture drawn, thus far is therefore that of an autonomous Council for the district, with powers of legislation over the land, village, forests, social customs, administration of local law, powers over village and town committees, etc., with corresponding financial powers. These are far in excess of the powers of Local Boards. What if the Councils or the executive controlled by it should misuse the powers or prove incapable of reasonably efficient management? Some of the Hill Districts are on the borders of India. What if their acts prove prejudicial to the safety of the country? Experience all over the country indicates that local bodies sometimes mismanage their affairs grossly. We consider that the Governor should have the power to act in an emergency and to declare an act or resolution of the Council illegal or void, if the safety of the country is prejudiced, and to take such other action as may be necessary. We also consider that if gross mismanagement is reported by a Commission, the Governor should have powers to dissolve the Council subject to the approval of the Legislature before which the Council, if so it desires, can put its case. (See clause Q of Appendix A.)

20. The Frontier Tracts.—(a) *Central Administration recommended.*—We have indicated the difference between the Frontier Tracts and other Hill Areas already. It is clear that the legal position on the Balipara and Sadiya Frontier Tracts is that they are part of the province right up to the MacMahon Line. Regular provincial administration is however not yet possible (except perhaps in the plains portions before the Inner Line) on account of the circumstances prevailing there. The policy followed in these tracts as well as on the Tirap Frontier (where there is no delineated frontier with Burma yet) and the Naga Tribal Area is that of gradually extending administration. We recommend that when the Central Government which now administers these areas (and which, we consider it should continue to do with the Government of Assam as its agent) is of the view that administration has been satisfactorily established over a sufficiently wide area, the Government of Assam should take over the administration of that area by the issue of a notification. We also recommend that the pace of extending administration should be greatly accelerated and that in order to facilitate this, steps should be taken to appoint separate officers for the Lohit Valley, the Siang Valley and the Naga Tribal area which at present is in the jurisdiction of two different officers (the Political Officer, Tirap Frontier Tract and the Deputy Commissioner, Naga Hills District). We have provided that the administration of the areas to be brought under the provincial administration in future should also be similar to that of existing Hill Districts.

(b) *Lakhimpur Frontier and Plains Portions.*—Regarding the Lakhimpur Frontier Tract, it appears to be the view of the External Affairs Department that this Tract does not differ from the plains "and need not be considered in relation to the problems of the hill tribes". Our information goes to show that a portion of the Lakhimpur Frontier Tract was recently (during the war) included in the Tirap Frontier Tract. The view of the Political Officer regarding this portion differed from that of other witnesses and the circumstances here seem to need closer examination, as the Political Officer has stated that the area is inhabited by tribes people. There are certain Buddhist villages inhabited by Fakials who should be brought into the regularly administered area if possible. About the Lakhimpur Frontier Tract which is under the Deputy Commissioner, Lakhimpur, we have no hesitation in recommending that it should be attached to the regular administration of the District. The report of the

Deputy Commissioner produced before us in evidence is clear on the point. We also conclude from the evidence collected at Sadiya that the Saikhoaghat portion of the excluded area south of the Lohit river and possibly the whole of the Sadiya plains portion up to the Inner Line could be included in regular administration, but feel that the question needs more detailed investigation and recommend that it should be undertaken by the Provincial Government. The portion of the Balipara Frontier Tract round Charduar should be subjected to a similar examination, and the headquarters of the Political Officer of this tract should be shifted into the hills as early as possible.

(c) *Posa Payments*.—Certain payments are being made at present to the tribes on the North East Frontier. In the Balipara Frontier Tract payments called *posa* which total in all to about Rs. 10,000 per year, and certain customary presents are paid. These are vestigial payments of sums which the tribes used to claim in the days of the Ahom kings whether by way of *quid pro quo* for keeping the peace on the border and not raiding the plains or in recognition of a customary claim on the local inhabitants or territory. On the Tirap Frontier a payment of Rs. 450 per year is made to the Chief of Namsang as lease money for a tea garden. We have considered the question whether these payments should be continued in view of the costly development schemes being undertaken, and have come to the conclusion that it would be a mistake to stop them. The effect upon the tribes of such a step would be the feeling that the first act of the new Government was adverse to them and the result of any disaffection in this area might seriously jeopardise our aims of establishing administration and bringing the tribes, who are well disposed at present, into the fold of civilisation within our boundaries. The payments are negligibly small in comparison with the large sums of money required for these areas and we recommend that they should continue unchanged at any rate till there is a suitable opportunity for a review of the position.

21. Representation.—(a) *Adult Franchise*.—The partially excluded areas are already represented in the provincial legislature. In the Garo Hills and Mikir Hills the franchise as already stated is a restricted one. The excluded areas have no representation at present. So far as the frontier tracts tribal areas are concerned they have no representation and the circumstances are such that until it is declared that an area is or can be brought under regular administration, representation cannot be provided. We are of opinion that examination should be made as soon as possible of this question in view of the very clear desire expressed by the Abor, Hkampti and others for representation. Meanwhile, we are of the view that there is no longer any justification for the exclusion of the Naga, Lushai and North Cachar Hills and that these areas should be represented in the provincial legislature. The restriction on the franchise in the Garo and Mikir Hills should be removed and, if there is universal adult franchise elsewhere, that system should be applied to all these Hills. We would note here that our colleagues from the Lushai Hills expressed some doubts about the feasibility of adult franchise in the Lushai Hills and seemed to prefer household franchise. We do not anticipate any real difficulty in adult franchise here if it is feasible elsewhere but would recommend that the position of the Lushai Hills may be considered by the appropriate body which deals with the question of franchise.

(b) *Provincial Representation*.—As regards the number of representatives of the Hill Districts in the provincial legislature, we are of the view that if the principle of weightage is recognised for any community, the case of the hill people should receive appropriate consideration in that respect. Though we do not propose that there should be any weightage

for the hill people as a principle, we are clear that the number of representatives for each of the Hill Districts should not be less in proportion to the total number than the ratio of the population of the district to the total population even though this may, in some cases, mean a slightly weighted representation in practice. In the draft provincial constitution we find that it is provided that the scale of representation in the provincial Assembly is not to exceed one representative for every lakh of the population. On this basis, the Hill Districts would, according to the minimum recommended by us, obtain representation as follows:—

	No.	Population
Khasi and Jaintia Hills	2	105,463
Garo Hills	3	223,569
Mikir Hills	2	149,746
Naga Hills	2	189,641
Lushai Hills	2	152,786
North Cachar Hills	1	37,361
Total	12	8,58,536

It will be seen that if the total population of the Hills is taken, the number of representatives for all the Hills will be somewhat in excess of the number which would be arrived at on the basis of one representative for each lakh of the population. We are not only of the view that in the special circumstances of the Hills, representatives as recommended by us is necessary to provide proper representation but that the excess should not be adjusted to the detriment of the rest of Assam out of the total number admissible under Section 19(2) of the draft provincial constitution. We have provided accordingly that in reckoning the number of representatives for the rest of Assam, the population and the number of representatives of the Hills shall not be taken into account. We contemplate that the Khasi & Jaintia Hills should include the Municipality and Cantonment of Shillong which is at present a general constituency. This will be an exception to the provision barring non-tribals from election in the Hill constituencies.

(c) *Federal Legislature*.—The total population of the Hill Districts given above clearly justifies a seat for the Hill Tribes in the Federal Legislature on the scale proposed in Section 13 (c) of the Draft Union Constitution.

(d) *Joint Electorate*.—The Hill Districts have this simple feature, that their populations are almost entirely tribal. In the Khasi and Jaintia Hills (a pocket of Mikir excepted) in the Garo Hills, the Mikir Hills (some Rengma and Kuki excepted) the population is uniform. In the Naga Hills, among the different tribes like the Angami, Ao, Sema, there is now the beginning of a feeling of unity. The Naga Hills District has a population of 1.85 lakhs and is likely to get two representatives at least which might enable the allocation of one each to the two main centres of Kohima and Mokokchung. In the North Cachar Hills the position is less satisfactory but in all these areas we consider that the electorate should be joint for all the tribes and non-tribals residing there. In view of the preponderance of tribal people we consider that no reservation of seats is necessary and the only condition which we propose is that the constituencies should not overlap across the boundaries of the district (in the case of North Cachar, the subdivision).

(e) *Non-Tribals Barred.*—We have considered the question of non-tribals residing permanently in the hills. Some of these have been in residence for more than one generation and may well claim the right to stand for election but we find that the feeling against allowing them to stand for election is extremely strong. It is felt that even though in a predominantly tribal constituency the chances are all in favour of a tribal candidate, the non-tribals, in view of their greater financial strength can nullify this advantage. We recommend therefore that plains people should not be eligible for election to the provincial legislature from the Hill Constituencies.

22. The Provincial Ministry.—That the Hills can already provide representatives who can take part in the provincial administration is obvious. On four occasions residents of the Khasi Hills have occupied a place in the provincial Executive Council or Cabinet. The hitherto excluded Lushai and Naga Hills have the same potentiality. With Ministers from the Hills in the Cabinet it may be expected indeed that their interests will not be neglected. The doubts raised are: will there necessarily be a Minister from the Hills even when a suitable person is available? If not who will look after the interests of the Hills? The Hill areas contain close upon a million people and in view of the great importance of the frontier hills in particular, it would be wise of any Ministry to make a point of having at least one colleague from the Hills. It is our considered view that representation for the Hills should be guaranteed by statutory provision if possible. If this is not possible, we are of the view that a suitable instruction should be provided in the instrument of instructions or corresponding provision. The development of the Hills however is a matter which requires special attention in the interests of the province and we feel that if the circumstances necessitate it, the Governor should be in a position to appoint a special Minister who should, if possible, be from among the hill people. In this connection we would refer to the need for a special development plan which we have referred to in Para. 16 (b).

23. The Services.—A good deal of discussion has centred round the problem of providing suitable officials for the hills. The number of suitably qualified candidates from the hill people themselves has been inadequate hitherto and the utilisation of other candidates has of course been found necessary. No special service has been considered necessary for the hills. On the other hand there has been a certain amount of feeling against the plains officials notably against inferior staff, who have been posted there. We have considered this question carefully and come to the conclusion that no separate service for the Hills is desirable or necessary and that there should be free interchange between hill and non-hill officials, at least in the higher cadres of the provincial and All-India Services. The District Councils will doubtless appoint all their staff from their own people and to prevent interchangeability would be tantamount to perpetuating exclusion as our proposals involve a good deal of separation already. We recommend therefore that while non-tribal officials should be eligible for posting to the hills and *vice versa* they should be selected with care. We also recommend that in recruitment the appointment of a due proportion of hill peoples should be particularly kept in mind and provided for in rules or executive instructions of the Provincial Government.

24. A Commission.—We have referred to the need for special attention to the development of the Hills. No statutory provision for the earmarking of adequate funds is considered possible. On the other hand, the

Hill Councils recommended by us will have far greater powers than local bodies in plains districts. The Hills occupy a position of strategic importance and it is in our opinion of great importance for constant touch to be maintained with the development and administration of these areas. For this purpose we consider that there should be provision for the appointment of a Commission, on which we expect that there will be representatives of the tribes, to examine the state of affairs periodically and report. We recommend that there should be provision to appoint the Commission *ad hoc* or permanently and that the Governor of the province should have the responsibility and power for appointing it. The report of the Commission should enable the Government to watch the progress of the development plan and take such other administrative action as may be necessary.

25. Plains Tribals.—The total tribal population of Assam was shown in the Census of 1941 as 2,484,996. The excluded and partially excluded areas contribute to this only 863,248. About 1·6 million tribals therefore live in the plains including those who work as tea-gardens labour. The terms of our enquiry are that we report on a scheme of administration for the tribal and excluded areas and the question of tribes people in the plains strictly does not concern us. Their case will doubtless be dealt with by the Minorities Sub-Committee. The population of the plains tribals which is being gradually assimilated to the population of the plains, should for all practical purposes be treated as a minority. Measures of protection for their land are also in our view necessary. At present certain seats are reserved in the provincial legislature for them. The question of their representation and protection will we hope be considered by the Minorities Sub-Committee. We have kept in mind however the possibility of there being certain areas inhabited by tribals in the plains or at the foot of the hills whom it may be necessary to provide for in the same manner. [See clause A (3) of Appendix A.]

26. Boundaries.—All the Hills people have expressed a desire for the rectification of district boundaries so that people of the same tribe are brought under a common administration. We sympathise with this desire but find that it is only outside our terms of reference but also that it would necessitate an amount of examination which would make it impossible for us to submit our report to the Advisory Committee in time. The present boundaries have, we find, been in existence for many years and we feel that there is time for a separate commission set up by the Provincial Government to work on the problems involved. An exception should however be the case of the Barpathar and Sarupathar mauzas included in the Mikir Hills which the Provincial Government have already decided should be removed from the category of excluded and added to the regularly administered areas (see memorandum of Government of Assam). We agree with this recommendation and propose that it should be given effect when the new Constitution comes into force.

27. Non-Tribal Residents.—In the Hill Districts, a certain number of non-tribal people reside as permanent residents. They generally follow non-agricultural professions but some cultivate land also. We have recommended that these residents should not be eligible to stand for election to the provincial legislature. It is necessary however to provide them with representation in the local council if they are sufficiently numerous. We contemplate that constituencies may be formed for the local councils if the number of residents is not below 500 and that non-tribal constituencies should be formed where this is justified.

28. Draft Provisions.—For the sake of convenience we have condensed most of our recommendations into the form of a draft of provisions in

roughly legal form and this draft will be bound as an appendix to this part. The draft also contains certain incidental provisions including finance not referred to in this report.

29. Transitional Provisions.—Reference has been made to the constitutions drafted in the different district for their local councils. This is of course the expression of the strong desire for autonomy in the Hill District. Rather more important however are the individualities of the different tribes and the distinctness of their customs and social systems. If the tribes are allowed to decide the composition and powers of their own councils it will doubtless afford them the maximum of sentimental satisfaction and conduce also to the erection of a mechanism suited without question for their own needs and purposes. While therefore it will be necessary in the existing conditions for the Governor of Assam (as the functionary who will carry on the administration till the new constitution comes into force) to frame provisional rules for holding elections and constituting the councils. We recommend that the councils thus convened should be provisional councils (one year) and that they should frame their own constitution and regulations for the future.

APPENDIX A TO PART I OF NORTH-EAST FRONTIER (ASSAM) TRIBAL AND EXCLUDED AREAS SUB-COMMITTEE REPORT

A (1) The areas included in schedule A to this Part shall be autonomous districts.

(2) An autonomous district may be divided into autonomous regions.

(3) Subject to the provisions of section P the Government of Assam may from time to time notify any area not included in the said schedule as an autonomous district or as included in an autonomous district and the provisions of this Part shall thereupon apply to such area as if it was included in the said schedule.

(4) Except in pursuance of a resolution passed by the District Council of an autonomous district in this behalf the Government of Assam shall not notify any district specified or deemed to be specified in the schedule or part of such district, as ceasing to be an autonomous district or a part thereof.

B (1) There shall be a District Council for each of the areas specified in schedule A. The Council shall have not less than twenty nor more than forty members, of whom not less than three fourths shall be elected by universal adult franchise.

Note.—If adult franchise is not universally adopted this provision will have to be altered.

(2) The constituencies for the elections to the District Council shall be so constituted if practicable that the different tribals or non-tribals, if any, inhabiting the area shall elect a representative from among their own tribe or group:

Provided that no constituency shall be formed with a total population of less than 500.

(3) If there are different tribes inhabiting distinct areas within an autonomous district, there shall be a separate Regional Council for each such area or group of areas that may so desire.

(4) The District Council is an autonomous district with Regional Councils shall have such powers as may be delegated by the Regional Councils in addition to the powers conferred by this constitution.

(5) The District or the Regional Council may frame rules regarding (a) the conduct of future elections, the composition of the Council, the office bearers who may be appointed, the manner of their election and other incidental matters, (b) the conduct of business, (c) the appointment of staff, (d) the formation and functioning of subordinate local councils or boards, (e) generally all matters pertaining to the administration of subjects entrusted to it or falling within its powers:

Provided that the Deputy Commissioner or the Sub-divisional officer as the case may be of the Mikir and the North Cachar Hills shall be the Chairman *ex-officio* of the District Council and shall have for a period of six years after the constitution of the Council. Powers subject to the control of the Government of Assam to annul or modify any resolution or decision of the District Council or to issue such instructions as he may consider appropriate.

C (1) The Regional Council, or if there is no Regional Council, the District Council, shall have power to make laws for the area under its jurisdiction regarding (a) allotment, occupation or use for agricultural, residential or other non-agricultural purposes, or setting apart for grazing, cultivation, residential or other purposes ancillary to the life of the village or town, of land other than land classed as reserved forest under the Assam Forest Regulation, 1891 or other law on the subject applicable to the district:

Provided that land required by the Government of Assam for public purposes shall be allotted free of cost if vacant, or if occupied, on payment of due compensation in accordance with the law relating to the acquisition of land, (b) the management of any forest which is not a reserve forest, (c) the use of canal or water courses for the purposes of agriculture, (d) controlling, prohibiting or permitting the practice of *jhum* or other forms of shifting cultivation, (e) the establishment of village or town committees and councils and their powers, (f) all other matters relating to village or town management, sanitation, watch and ward.

(2) The Regional Council or if there is no Regional Council, the District Council shall also have powers to make laws regarding (a) the appointment or succession of chiefs or headmen, (b) inheritance of property (c) marriage and all other social customs.

D (1) Save as provided in Section F the Regional Council, or if there is no Regional Council, the District Council, or a court constituted by it in this behalf shall have all the powers of a final court of appeal in respect of cases or suits between parties, all of whom belong to hill tribes, in its jurisdiction.

(2) The Regional Council, or if there is no Regional Council the District Council, may set up Village Councils or Courts for the hearing and disposal of disputes or cases other than cases triable under the provisions of Section F, or cases arising out of laws passed by it in the exercise of its powers, and may also appoint such officials as may be necessary for the administration of its laws.

E The District Council of an autonomous district shall have the powers to establish or manage primary schools, dispensaries, markets, cattle pounds, ferries fisheries, roads and waterways and in particular may

~~prescribe the language and manner in which primary education shall be imparted.~~

F (1) For the trial of acts which constitute offences punishable with imprisonment for five years or more or with death, or transportation for life under the Indian Penal Code or other law applicable to the district or of suits arising out of special laws or in which one or more of the parties are non-tribals, the Government of Assam may confer such powers under the Criminal Procedure Code or Civil Procedure Code as the case may be on the Regional Council, the District Council or Courts constituted by them or an officer appointed by the Government of Assam as it deems appropriate and such courts shall try the offences or suits in accordance with the Code of Criminal Procedure or Civil Procedure as the case may be.

(2) The Government of Assam may withdraw or modify powers conferred on the Regional Council or District Council or any court or officer under this section.

(3) Save as provided in this section the Criminal Procedure Code and the Civil Procedure Code shall not apply to the autonomous district.

Note.—"Special Laws"—Laws of the type of the law of contract, company law or insurance etc. are contemplated.

G (1) There shall be constituted a District or Regional Fund into which shall be credited all moneys received by the District Council or Regional Council as the case may be in the course of its administration or in the discharge of its responsibilities.

(2) Rules approved by the Comptroller of Assam shall be made for the management of the Fund by the District or Regional Council and management of the Fund shall be subject to these rules.

H (1) A Regional Council, or if there is no Regional Council the District Council shall have the following powers of taxation:

(a) subject to the general principles of assessment approved in this behalf for the rest of Assam, land revenue, (b) poll tax or house tax.

(2) The District Council shall have powers to impose the following taxes, that is to say (a) a tax on professions, trades or calling, (b) a tax on animals, vehicles, (c) toll tax (d) market dues, (e) ferry dues, (f) cesses for the maintenance of schools, dispensaries or roads.

(3) A regional Council or District Council may make rules for the imposition and recovery of the taxes within its financial powers.

I (1) The Government of Assam shall not grant any licence or lease to prospect for or extract minerals within an autonomous district save in consultation with the District Council.

(2) Such share of the royalties accruing from licences or leases for minerals as may be agreed upon shall be made over to the District Council. In default of agreement such share as may be determined by the Governor in his discretion shall be paid.

J (1) The District Council may for the purpose of regulating the profession of moneylending or trading by non-tribals in a manner detrimental to the interests of the tribals make rules applicable to the district or any portion of it: (a) prescribing that except the holder of a licence issued by the Council in this behalf no person shall carry on money-lending, (b) prescribing the maximum rate of interest which may be levied

by a moneylender, (c) providing for the maintenance of accounts and for their inspection by its officials, (d) prescribing that no non-tribal shall carry on wholesale or retail business in any commodity except under a licence issued by the district council in this behalf.

Provided that no such rules may be made unless the District Council approves of the rules by a majority of not less than three fourths of its members:

Provided further that a licence shall not be refused to moneylenders and dealer carrying on business at the time of the making of the rules.

K (1) The number of members representing an autonomous district in the Provincial Legislature shall bear at least the same proportion to the population of the district as the total number of members in that Legislature bears to the total population of Assam.

(2) The total number of representatives allotted to the autonomous districts (which may at any time be specified in Schedule A) in accordance with Sub-section (1) of this Section shall not be taken into account in reckoning the total number of representatives to be allotted to the rest of the Province under the provisions of Section.....of the Provincial Constitution.

(3) No constituencies shall be formed for the purpose of election to the Provincial Legislature which include portions of other autonomous districts or other areas nor shall any non-tribal be eligible for election except in the constituency which includes the Cantonment and Municipality of Shillong.

L (1) Legislation passed by the provincial legislature in respect of (a) any of the subjects specified in section C or

(b) prohibiting or restricting the consumption of any non-distilled alcoholic liquor, shall not apply to an autonomous district.

(2) A Regional Council of an autonomous district or if there is no Regional Council, the District Council may apply any such law to the area under its jurisdiction, with or without modification.

M The revenue and expenditure pertaining to an autonomous district which is credited to or met from the funds of the Government of Assam shall be shown separately in the annual financial statement of the Province of Assam.

N There shall be paid out of the revenues of the Federation to the Government of Assam such capital and recurring sums as may be necessary to enable that Government—(a) to meet the average excess of expenditure over the revenue during the three years immediately preceding the commencement of this constitution in respect of the administration of the areas specified in Schedule A; and (b) to meet the cost of such schemes of development as may be undertaken by the Government with the approval of the Federal Government for the purpose of raising the level of administration of the aforesaid areas to that of the rest of the province.

O (1) The Governor of Assam may at any time institute a commission specifically to examine and report on any matter relating to the administration or, generally at such intervals as he may prescribe, on the administration of the autonomous districts generally and in particular on (a) the provision of educational and medical facilities and communications (b) the

need for any new or special legislation, and (c) the administration of the District or Regional Councils and the laws or rules made by them.

(2) The report of such a commission with the recommendations of the Governor shall be placed before the provincial legislature by the Minister concerned with an explanatory memorandum regarding the action taken or proposed to be taken on it.

(3) The Governor may appoint a special Minister for the Autonomous Districts.

P (1) The Government of Assam may, with the approval of the Federal Government, by notification make the foregoing provisions or any of them applicable to any area specified in Schedule B to this part, or to a part thereof; and may also, with the approval of the Federal Government, exclude any such area or part thereof from the said schedule.

(2) Till a notification is issued under this section, the administration of any area specified in Schedule B or of any part thereof shall be carried on by the Union Government through the Government of Assam as its agent.

Q (1) The Governor of Assam in his discretion may, if he is satisfied that any act or resolution of a Regional or District Council is likely to endanger the safety of India, amend or suspend such act or resolution and take such steps as he may consider necessary (including dissolution of the Council and the taking over of its administration) to prevent the commission or continuation of such act or giving effect to such resolution.

(2) The Governor shall place the matter before the legislature as soon as possible and the legislature may confirm or set aside the declaration of the Governor.

R The Governor of Assam may on the recommendation of a commission set up by him under section N order the dissolution of a Regional or District Council and direct either that fresh election should take place immediately, or with the approval of the legislature of the province, place the administration of the area directly under himself or the commission or other body considered suitable by him, during the interim period or for a period not exceeding twelve months:

Provided that such action shall not be taken without affording an opportunity to the District or Regional Council to be heard by the provincial legislature and shall not be taken if the provincial legislature is opposed to it.

Transitional Provisions:

Governor to carry on administration as under the 1935 Act till a Council is set up, he should take action to constitute the first District Council or Regional Council and frame provisional rules, in consultation with existing tribal Councils or other representative organisations, for the conduct of the elections, prescribe who shall be the office bearers, etc. The term of the first Council to be one year.

(Sd.) GOPINATH BARDOLOI (*Chairman*).

„ J. J. M. NICHOLS-ROY.

„ RUP NATH BRAHMA.

„ A. V. THAKKAR.

Schedule A

The Khasi and Jaintia Hills District excluding the town of Shillong.

The Garo Hills District.

The Lushai Hills District.

The Naga Hills District.

The North Cachar Sub-division of the Cachar District.

The Mikir Hills portion of Nowgong and Sibsagar District excepting the mouzas of Barpathar and Sarupathar.

Schedule B

The Sadiya and Balipara Frontier Tracts.

The Tirap Frontier Tract (excluding the Lakhimpur Frontier Tract).

The Naga Tribal Area.

APPENDIX B

Copy of Notification No. 1-X, dated the 1st April 1937, from the Government of India in the External Affairs Department.

In exercise of the powers conferred by sub-section (1) of Section 123, read with sub-section (3) of Section 313, of the Government of India Act, 1935, the Governor General in Council is pleased to direct the Governor of Assam to discharge as his agent, in and in relation to the tribal areas beyond the external boundaries of the Province of Assam, all functions hitherto discharged in and in relation to the said areas by the said Governor as Agent to the Governor-General in respect of the political control of the trans-border tribes, the administration of the said areas and the administration of the Assam Rifles and other armed civil forces.

PART II

1. The Balipara Frontier Tract.—This is the tract between the Subansiri River on the east, Bhutan on the west and the MacMahon Line to the north, with its headquarters at Charduar about 20 miles from Tezpur. It is included in the schedule to the Government of India (Excluded and Partially Excluded Areas) Order as an Excluded Area, but in practice it is administered by the Governor of Assam as the Agent to the Government of India and is treated in this respect as a tribal area. The portion immediately to the north of Charduar and up to the Inner Line is a plains portion the area of which is estimated to be approximately 1,000 square miles. The censused portion of the area was 571 square miles and the population of 6,512 contained only 560 Daffa, the remaining number of 2,323 persons enumerated as Assam tribes consisting of Cachari, Garo, Mikir and Miri. The area beyond the Inner Line is estimated to cover about 11,000 square miles and contain a population of approximately 350,000. For administrative purposes it is at present divided into two parts, the Balipara or Sela Agency and the Subansiri Area under two Political Officers. Particularly in the Subansiri Area there portions which have not yet been explored by our officers, and the details of the

tribes living there are still not fully known. In the Sela area administration has been extended as far as Dirang Dzong and this area contains tribes like the Momba, Sillung, Aka or Rhuso, Senjithonji. The Subansiri area is inhabited largely by Dafla (Nisu) and Apatani but large areas have yet to be visited and explored.

In the western portions of the tract the way of life of the tribes is influenced a good deal by Tibetan customs and Buddhist monasteries but in the eastern sector the people are much more primitive. Some terraced cultivation and orange gardens exist but people like the Aka depend on *jhuming*. Literacy among the tribes seems to be very poor in spite of the influence of monasteries. Except among the Momba there is little demand even for education. For their requirements of cloth and salt notably the inhabitants depend upon contact with the plains areas or with the Tibetans. The monastery at Towang exercises considerable influence over the lives of these tribes and puts forward claims to monastic taxation. The tribes keep poultry, pigs, goats and *mithun*. In the olden days some chiefs here apparently used to exercise a kind of right of levying taxes in plains villages. This appears to have been recognised by the Ahom Kings who allowed relief to the people liable to such taxes from other taxes to a corresponding extent. In connection with these levies an agreement* was entered into by the British Government for the payment of an annual subsidy, known as *posa*. Rs. 5,000 are paid to the Talung Dzongpons and the Sat Rajas of Kalaktang and some bottles of rum and cloth also are given. The tribes in return also give certain presents like ebony, a gold ring, two Chinese cups, two yak tails and two blankets. Similar payments of *posa* are made to the Charduar Bhutia or Sherdukpen Thembangia Bhutia, Aka and certain other tribes. Payments to the Dafla and Miri are however made only to freemen and in all cases cease on the death of the present holder. The total payment of *posa* comes to about 10,000 rupees per year. Maintenance of law and order in this area as well as defence against external encroachment is looked after by the posts occupied by the Assam Rifles.

Though some of the witnesses who appeared before us could speak Assamese and appeared to be intelligent, we are inclined to agree with the Political Officer's view that until the five-year plan which provides for an expansion of schools and communications has been given effect, there is likely to be little material in this Tract particularly in the Subansiri Area, for local self-governing institutions. For some time the problems of administration here must remain confined largely to the maintenance of peace among the tribes, prevention of encroachment and oppression by Tibetan tax collectors, extension of communications, and elementary facilities for obtaining medicine and primary education. Tibetan officials are known to have set up trade blocks with a view to compelling trade with Tibet rather than India and the removal of these obstructions is a matter which may involve political contact with Tibetan authorities. As already pointed out large areas are as yet *terra incognita* to our officers and the attitude of the tribes is one of fear or suspicion which may easily turn to hostility. It is clear however that the southern portions of the tract will develop earlier than the northernmost portions and administration of the political agency type can therefore be gradually

*Clause IV of Agreement No. XLIV of 1888 with the Kapaschor or Katsuv Akaslien as follows :—The “*posa*” we shall receive from Government is in lieu of the *du* we formerly levied on the Assamese inhabitants of the plains, and that we have no right to receive any food, service, dues or other token of superiority from any receipt in British territory....” Aitchison Vol. XII.

shifted northwards. The Political officers' view is that the time is not yet ripe for shifting his headquarters from Charduar to a place in the hills. The area round Charduar which is in the plains portion is inhabited mostly by non-tribals or detribalised people of tribal origin. The question of bringing it under regular administration needs therefore to be examined in detail by the Provincial Government. What we contemplate is that areas over which adequate control has been established should be brought under the regular provincial administration while areas further north remain under the control of the Central Government, as at present. The Centre should however administer the tract through the Provincial Government as its agent so that the Provincial Government remains in contact with the administration*

We are also of the view that steps should be taken as soon as practicable to erect boundary pillars on the trade routes to Tibet at places where they intersect the Mac Mahon Line.

The payments of *posa* represent a small amount and the sentimental value attached to it and the probability that any cessation of it concurrently with the coming into force of the new constitution would have most undesirable consequences on the attitude of the tribes, should be kept in mind. It should clearly not be discontinued for the present.

2. The Sadiya Frontier Tract.—The Sadiya Frontier Tract is the tract between the Subansiri river on the west and the boundary of the Tirap Frontier Tract on the north-east. The latter boundary has been adjusted from time to time. The Frontier area comprising the Sadiya and Tirap Frontier Tracts is somewhat in the shape of a parabola which contains the area through which the Brahmaputra river with its tributaries debouches on to the plains. The Sadiya tract may be regarded as falling into two or three distinct portions. To begin with, there is the portion to the west consisting of the valley of the Dibang or Siang with Abor tribes like Minyong, Bori, Galong, Padam. The Valley of the Dibang in the centre covers the area inhabited by Idu or Chulikata Mishmi, and the valley of the Lohit is inhabited by Digaru and other Mishmi and certain Hkampti and Miri tribes. Included in these three broad divisions is the plains portion of the tract (which includes Saikhoaghat on the south bank of the Lohit river) which runs up to the foot of the hill (roughly along the Inner Line). As in the case of the Balipara tract, regular administration has yet to be established in portions up to the MacMahon Line, which itself needs to be demarcated by the erection of boundary pillars at least at the points where the trade routes cross into India. The headquarters of the Political Officer is at Sadiya and there is an Assistant Political Officer at Pasighat.

The Assistant Political Officer of the Lohit Valley stays at Sadiya and his jurisdiction includes the Chulikata or Idu Mishmi in the north and the Digaru and others towards the east and south of the tract. There are no easy lateral communications between the Chulikata area and the Lohit Valley proper.

*See Assam Government's Factual Memorandum on page 70 of Excluded and partially excluded Areas. (C. A Pamphlet).

By inhabitants, the hill tract falls broadly into portions inhabited by Abor (Siang Valley) the Chulikata in the Dibang Valley and other Mishmi in the Lohit Valley, and the Hkampti or Shan who are a comparatively civilised tribe following Buddhism. In addition there is the mixed population of the Sadiya portion to the south of Inner Line containing non-tribals and some Miri. Although the Gallong Abor are somewhat different from the Padam and Minyong the languages are practically the same and the whole of the Abor Tract could be regarded as reasonably uniform. The Mishmi area, though it falls into two separate portions along the Dibang and Lohit Rivers respectively, and the tribes do not understand one another's language, could be treated as one. The Hkampti area which is the third one is small and the Sadiya population is a mixed one. The area beyond the Inner Line which is not censused is estimated to contain 250,000 Abor, 40,000 Idu, 25,000 Digaru and Miji and about 2,000 Hkampti. The censused portion is an area of 3,309 square miles with a total population of 60,118 of which 39,974 are of tribal origin.

That total area of the tract may be in the neighbourhood of 15,000 square miles and its development and administration clearly necessitate the subdivision of the tract and the appointment of more officials. In fact the Political Officer has already recommended the division of the tract into two portions based on Pasighat and Sadiya respectively. This is roughly equivalent to a division into the Mishmi area and the Abor area respectively and the proposals under consideration at present seem to contemplate the posting of a Political Officer at Sadiya for the Mishmi Agency with an Assistant with headquarters at Walong (Lohit Valley) and a second Political Officer at Pasighat (now the headquarters of an A. P. O.). The main reason for keeping Sadiya as the headquarters for the Mishmi Agency would appear to be the lack of lateral communications between the Chulikata area in the Dibang Valley and the Digaru area in the Lohit Valley. It is clear however that Sadiya and the portion up to the Inner Line is in the plains and contains a mixed population. Cultivation in this tract is also settled and the people of the tract desire that it should not continue under the present system of exclusion. Moreover, there is the area occupied by the Hkampti who are settled cultivators professing Buddhism which has also spread a good deal of literacy among them. *Prima facie* there is a strong case for treating the plains portion of the tract as well as the Hkampti portions as regularly administered areas, in the form perhaps of a separate subdivision or district. The distinctness of the Hkampti must however be borne in mind and the area will probably have to be treated as a separate taluk. An early and detailed examination of the whole question is clearly called for. If Sadiya is treated as plain, a suitable headquarters for the Political officer of the Mishmi Area needs to be looked for keeping in mind the difficulties of communication between the Dibang and Lohit valleys.

With the exception of the Hkamptis who are settled cultivators, and may be regarded as comparatively civilised, and a few people in the plains portion who also do settled cultivation, the Abor and Mishmi pursue *jhuming* and appear to exhibit little competence in the art of raising crops. They of course eke out a livelihood by keeping poultry, sheep and *mithun*. The herds of *mithun* kept by these tribes are in fact the occasion for disputes between people as raiding for *mithun* seems to be in this area what head-hunting is in the Naga tribal area. Serious quarrels arising out of raiding for *mithun* may call for the intervention of the Political officer. The tribes are generally heavily addicted to opium and attempts to keep the growth and consumption of opium in check seem to be

meeting with little success. Though we feel that the Abor and Mishmi are people who can be educated and assimilated to civilised administration in a comparatively short time, there is little literacy or education among them at present, and the depth of the area over which control has been established beyond the Inner Line does not seem to be great. Communications are the urgent need so that greater contact is possible even if the lack of education is regarded as no impediment. By the time the five year plan has been worked out (it contemplates the making of a road to Walong and improvement of communications in other respects also) it may be possible to give effect to the keenly expressed desire among the Abors of a share in the provincial administration. It is obvious that the pace of establishment of full-fledged administration in this area should be accelerated. A beginning should however be possible by way of political education of the people, if tribal councils are set up to enable the different tribes to come together to discuss matters of mutual interest and understand the problems of administration.

The forest of this tract can produce a good revenue but land revenue in the plains portions amounts to about 50,000 and the poll tax which is also levied in this area amounts to about 15,000. The forest revenue in 1946-47 was 430,000.

3. The Lakhimpur and Tirap Frontier Tracts.—The exact position, legal and *de facto* is not clear. The Lakhimpur Frontier Tract is mentioned as one of the North-East Frontier Tracts scheduled as an excluded area. No frontier has as yet been laid down between Burma and India in this region. There is an area locally known as the Lakhimpur Frontier Tract which is treated as an excluded area with the Deputy Commissioner, Lakhimpur, as the Agent or Political Officer. The Tirap Frontier Tract, which apparently derives its name from the river of that name, is said at present to contain a number of villages added to it from the Lakhimpur Frontier Tract during the war, and the rest of the portion inhabited by Naga tribes towards the Burmese territory. In addition to the Tirap Frontier Tract the Political Officer, whose headquarters are at present in Margherita in Lakhimpur district, is also in charge of a portion of the Naga Tribal Area which stretches along the boundary of the Lakhimpur district till it touches the northern apex of the Naga Hills district boundary and then runs along the eastern boundary of the Naga Hills districts towards its southern projection towards Burma. The area of the Lakhimpur Frontier Tract as shown in the census is about 394 square miles. The area of the Tirap Frontier Tract can of course only be guessed as there is no definite boundary with Burma. It may be in the neighbourhood of 4,000 square miles. In population also the tract differs from part to part. The Lakhimpur Frontier Tract differs "in no way from the surrounding plains; possesses none of the characteristics of the hill areas and need not be considered in relation to the problems of the hill tribes". *In the portion of the Lakhimpur Frontier Tract which has now been taken into the Tirap Frontier Tract there are several villages inhabited by Kachins and others who are regarded as tribal and pay house tax. In the Tirap Frontier Tract a number of tribes classed as Naga such as Tikak, Yogli, Ranrang, Lungri, Sank-e, Mosang, Morang etc. reside. The whole of the area inhabited by the Naga tribes could appropriately be regarded as part of India since the economic relations of all these tribes are with India and not with any other country. The demarcation of a boundary with Burma is to be taken up therefore on this principle and

* See North East Frontier Tribal and Excluded Areas (C. A. Pamphlet) paragraph 5 (c).

the question is said to be now under consideration by the Government of India. It is obviously a matter which needs to be expedited.

In the northern portion of the Naga Tribal area (which may be really regarded as part of the Tirap Frontier, since for a considerable distance the boundary of this area runs along with the eastern boundary of Lakhimpur district) there are tribes classed as Konyak Naga and the relations of this area are also with the plains portion of the Lakhimpur district. For instance it is common for tribes from Namsang and Borduria to come frequently to Jaipur for their marketing etc., and a good number of them seem to speak Assamese. The area is thickly populated. The Singpho or Kachin are Buddhists and they had chiefs belonging to the old ruling family before the country was taken over in 1839. The agreements entered into in 1826 and 1836 are a dead letter and though the chiefs are consulted by the Political Officer whenever there is any dispute to be settled or other matter to be dealt with, the Political Officer is being looked up to more and more, and the chief is regarded only by way of being an adviser to the Political Officer.

Agriculture is mostly by the primitive method of *jhuming* and there are no educational facilities. The economic condition of the tract is pretty poor. The Kachin however are settled cultivators and are in a better position than the Naga. In the Naga Tribal Area head hunting is still practised and slavery also seems to exist.

For the Tirap Frontier Tract also the five year plan approved by the Government of India contemplates the extension of the benefits of administration. The headquarters is proposed to be moved to a place in the interior called Horukhunma and hospitals and schools are to be constructed. Both in the Tirap Frontier Tract and the Naga tribal area the policy is just the same, namely the extension of administration gradually up to the Burma frontier. This policy appears to us to be the correct one to follow, whatever the legal status of the area may be under the Government of India Act. As in the case of the MacMahon Line frontier, all the portion between the Burmese boundary and the administered area of Assam should be merged in Assam as soon as possible and the distinction between Tribal Area and administered Indian territory abolished.

The Lakhimpur Frontier Tract need no longer be treated as an excluded area. As regards the portions of this tract taken over into the Tirap Frontier Tract the justification for continuing it as a frontier area needs to be further examined and if no difficulty is likely to be caused by the inclusion of the Kachins and other tribes who live there in the Lakhimpur district the area should be merged in the district. In the rest of the area, steps should be taken to organise non-statutory tribal councils, panchayats etc., in anticipation of the time when this tract will be fit for inclusion in the provincial administration. For the proper administration of the Naga Hills tribal area it would appear desirable to provide more officials, and a separate officer with headquarters as close as possible to the area, if not inside it is necessary. It would appear that there is already sanction for a separate Sub-divisional Officer at Mokokchung under the control of the Deputy Commissioner, Naga Hills district, but the present arrangement by which the tribal area is shared between the Deputy Commissioner, Kohima, and the Political Officer, Tirap Frontier Tract, needs to be further examined. It would perhaps be best to divide the portion into two districts one which will in due course either merge with the existing Naga Hills district and form a sub-division thereof or be a Konyak district,

and another which will form a portion of another district under an officer with headquarters in the present Tirap Frontier Tract.

4. Naga Hills District.—The Naga Hills Districts is an area of 4,289 square miles bounded on the east by the Naga tribal area, on the south by Manipur State and on the west by the Sibsagar district. The population was given as 189,641 of which 184,766 or 97·4 per cent. were tribal, at the 1941 census. The district is inhabited by a number of Naga tribes notably the Angami, the Sema, the Lhota and the Ao. Of these tribes the Angami are the most numerous and inhabit the area round Kohima, their number at the 1941 census being slightly over 52,000. The Aos are the next numerous numbering over 40,000 and the Semas come third with 35,741. These two tribes inhabit the area round Mokokchung which is a separate subdivision of the district, and the Sema also inhabit the region to the north-west of the Angami country. The tribes speak different languages and their *lingua franca* is Assamese or Hindustani. They have also differing customs and traditions. Areas claimed by the tribe or village are jealously guarded against encroachment and to such an extent in the Naga Tribal Area that a villager seldom ventures outside his village boundary. Within the boundary of the district proper there is generally speaking regular administration though during the war a slightly different atmosphere might have been introduced. Though the percentage of literacy among male Naga is about 6 only, quite a good number of these have received high education. Female literacy among the Naga is however negligible, though in the Mokokchung Subdivision it was found to be nearly four per cent. Literacy seems to be higher in the Mokokchung area than the Kohima area and the demand for education is also keener here. As regards economic circumstances a good deal of terracing is done in the Angami areas and a number of Nagas seem to have taken up non-agricultural occupations—the planting of gardens, etc.

It has been mentioned that the district is inhabited by mutually exclusive, diverse tribes. A movement for unification has however been afoot in the last two or three years and a body known as the Naga National Council (with sub-councils of the different tribes) was formed in 1945. Though a non-official political organisation, many of its leaders and members are Government officials and the organisation has also received official recognition locally. Thus the anomalous position of Government servants participating in political activity exists and in part this situation is due to the fact, that the educated, influential and leading elements are Government servants. Though the formation of this Council may be taken as an indication that the unity of administration has given a sense of unity to the different tribes it would perhaps be a mistake to suppose that there has been any real consolidation, and the tenacity with which the tribes hold on to their own particular views or traditions is still a potent factor. A notable characteristic of Naga* tribes is that decisions in their tribal councils are taken by general agreement and not by the minority accepting the decisions of the majority. This feature, though perhaps well suited to village affairs, may lead to many an unsatisfactory compromise in matters of greater movement.

In June 1946, the Naga National Council passed a resolution expressing their approval of the scheme proposed by the Cabinet Mission in the State Paper of May 16, 1946, and their desire to form part of Assam and India. The resolution protested against the proposal to group Assam with Bengal. This resolution and the feeling which prompted it seems to have held the field throughout 1946, and the Premier of Assam who visited the

*Other tribes have this characteristic also in greater or less degree.

district in November 1946 was greeted with the utmost cordiality. Early in 1947 the Governor of Assam, Sir Andrew Clow, visited the Naga Hills and advised the Nagas that their future lay with India and with Assam. Subsequently, towards the end of February 1947, the Naga National Council passed a resolution in which they desired the establishment of "an Interim Government of Nagas with financial provisions, for a period of ten years at the end of which the Naga people will be left to choose any form of Government under which they themselves choose to live." This resolution was of course completely different from the previous one in that it was based on the idea of being a separate nation and country. Subsequently the Naga National Council sent another memorandum in which they mentioned a "guardian power" without however stating who should be the guardian power, and it was found that they were extremely reluctant to express any choice openly between the three possibilities of the Government of India, the Provincial Government and H.M.G. It would appear that this was the formula on which a general measure of agreement could be obtained among the Nagas since there were clear indications that many of them were inclined to take moderate views more on the lines of the original resolution passed at Wokha but in view of the intransigence of certain other members, probably of the Angami group, they were prevented from doing so.

Subsequent events connected with the visit of H. E. the Governor to the Naga Hills on the 26th of June 1946 show that the Nagas have dropped their extreme demands. The substance of the claims made by the Nagas is now to maintain their customary laws and courts, management of their land with its resources, the continuance of the Regulations by which entry and residence in the Hills could be controlled and a review of the whole position after ten years.

5. Lushai Hills District.—This district has an area of 8,142 square miles and lies to the south of the Surma Valley. It forms a narrow wedge-shaped strip of territory about 70 miles wide in the north tapering to almost a point at its southern extremity and separates Burma from the State of Tripura and the Chittagong Hill Tracts of Bengal on the east and south-east respectively. With the exception of a small area at its southern extremity which is inhabited by Lakher tribesmen, the rest of the district is inhabited by the tribes known as Lushai or Mizo and found elsewhere in North Cachar sub-division, and Manipur as Kuki. The communications with the main inhabited areas of Aijal (headquarters) and Lungleh are difficult and there is only a bridle path connecting Aijal with Silchar. From Sarang, near Aijal, communication by river, along the Dhaleswari, is possible and Domagiri in the south is connected with Rangamati in the Chittagong Hill Tracts, by the Karnaphuli river. There is also a bridle path connecting Lungleh with Rangamati. The population of this district is 152,786 according to the last census and over 96 per cent. of the population is tribal. The district as a whole is hilly, with a general elevation of between 3,000 and 4,000 feet and the slopes are usually quite steep.

Jhuming, with the exception of certain orange gardens, is the common form of cultivation, and terracing and wet cultivation present many difficulties. Spinning and weaving is a common cottage industry, and every woman in a Lushai household spins and weaves for the needs of the family. Most attractive tapestry work is done in these hills and the designs make a very colourful display. Much of the weaving and spinning is done however for personal use and not for sale. The degree of literacy in the area is very high; the reason for it being probably the fact that

a large proportion of the population is Christian and the Sunday Schools have assisted the spread of literacy even among the adult men but, apart from a few Government servants, the number of people following non-agricultural occupations is negligible. The general level of intelligence and civilised behaviour in this area is high and compares favourably with most places in the plains.

There are no local self-governing institutions and village life is to a great extent dominated by the chief who is generally hereditary*. Formerly the number of chiefs was small, probably 50 or 60, but on account of the increase in population and the growth of new villages the present number is over 300. The chiefs settle disputes in the village, make a distribution of land for *jhuming* and generally carry out any orders issued to them by the officials including such work as collection of taxes. Of late the relations between the chiefs and the people have been rather strained, and it would appear that one reason for this is the convening of the so-called District Conference by the Superintendent of the Lushai Hills. The "Mizo Union" was started some time ago by the people (including chiefs also as members) as a non-official organisation, with the consent of the Superintendent. This organisation seems to have been without a rival to begin with but in 1946 the Superintendent convened the District Conference with a membership of 40 of which 20 were commoners and 20 were chiefs. The District Conference was supposed to be elected by household franchise at the rate of one voter for every 10 houses and in the first conference, the chiefs and the people had separate electorates, that is, the people elected their own representatives and the chiefs theirs. The conference apparently created little enthusiasm and the large representation of chiefs on it must have caused some dissatisfaction. The Superintendent was the President of the conference. Towards October 1946 this conference seems to have broken down and was virtually abandoned. Shortly before the visit of the Sub-Committee however fresh elections were held by the Superintendent. At this election a change was made in the franchise so that the separate electorate was abolished and chiefs and commoners voted jointly. The ratio of chiefs and commoners was however maintained and on this account the "Mizo Union" decided to boycott the elections with considerable effect on it. In fact it is claimed by the Mizo Union that only two or three hundred voters actually took part in the elections. However this might be, the convening of the District Conference which was claimed to be an elected body obviously brought it into rivalry with the Mizo Union, and since the conference was supported by the Superintendent, the Mizo Union incurred official disfavour.† The Superintendent being the President of the conference and the chiefs being largely under official control and influence, there was apparent justification for the suggestion that the District Conference was not representative of the views of the people. In fact the attitude of the Superintendent gave us very good reason to believe that the District Conference was completely dominated by him and was his mouthpiece. The Superintendent himself propounded a scheme before the Committee the purport of which was that all local affairs should be managed by a constitutional body elected by the district who would have their own officers appointed by themselves and that the Government of Assam or of the Union should pay only a certain sum of money amounting

*A certain number of non-hereditary appointments have been made of late by the Superintendent.

† There were incidents earlier leading to the seizure of the Mizo Union's funds by the Superintendent.

to the deficit of the district and enter into an agreement regarding the defence of the district and its external relations. To what extent the Superintendent believed that the Lushais could actually administer their own affairs efficiently in every matter other than defence is a matter of some doubt because in answer to a question whether he thought that the whole administration could be managed by them, he replied "I will not guarantee that it could be done". (See p.—Vol. II Evidence). In answer to a further question he gave it as his opinion that it would not be very long before the district could manage its own affairs and that the length of the period would depend upon whether there was interference from outside by bodies that are too powerful or not. The general impression gathered by us during our discussions with representatives of various interests in the district was that, with the exception of a few people who are under the influence of the Superintendent, the attitude of the rest was reasonable and it would not be long before disruptive ideas prevailing now completely disappear.

The main emphasis in the demands of the Lushais was laid on the protection of the land, the prevention of exploitation by outsiders and the continuance of their local customs and language.

The district has a revenue of about 2 lakhs and an expenditure amounting to about six lakhs. A high school has recently been started. The Assam Rifles are stationed at Aijal and Lungleh.

6. The North Cachar Hills Sub-Division.—This area is a sub-division of the Cachar district whose headquarters is Silchar. It is an area of 1,888 square miles inhabited by 37,361 people of which 31,529 were tribals, the remainder being accounted for by the various railway and other colonies of outsiders. The main feature of this sub-division is that it contains a number of different tribes namely the Cachari, the Naga, the Kuki and Mikir; a small number of Synteng or Khasi also inhabit the area. The general characteristic is that the tribes named above, with the exception of one or two villages of Naga inhabited by a few Kuki, live in areas of their own and there is no intermingling of population of the different tribes in the villages. The Zemi Naga are however not in a compact block and live in three different portions with Kuki or Cachari in the intervening portions. The Mikir form a pocket to the north-west of the area and the Cachari roughly inhabit the central and south-west portions. The Cachari are the most numerous of the tribes with a population of about 16,000; the Kuki are about 7,000 and the Zemi about 6,000. Relations between the Kuki and the Naga are said to be unsatisfactory though for the time being relations appear to be good. It may be mentioned here that the Zemi have still unpleasant memories of bad treatment by the Angami of the Naga Hills District and there is not much love lost between them though they showed themselves responsive to instructions given by certain Angami officials from Kohima.

There is little literacy in this area and cultivation is by the primitive method of *jhuming*. Unlike the Angami areas in the Naga Hills District, the hillsides here are much steeper and, apart from rainfall, there is no scope for irrigation. Then again, unlike the Angami, the Zemi live in small hamlets and it is not an easy matter to find adequate labour for the introduction of terracing and wet cultivation. A certain number of orange gardens have been planted and potatoes have been introduced into the district. There is little doubt that with the encouragement of education, for which there is a demand the tribes can be brought up to the level of the others; but at present while they are quite capable of understanding

the broad outlines of the democratic mechanism and can take part in elections, it is unlikely that they will be able to manage a body like a local board without official aid. The main difficulty in this portion is however that caused by the existence of different tribes who have little feeling of solidarity among themselves. Quite recently a sort of tribal council to bring together the different tribes with a view to educating them in local self-government was undertaken by the Sub-Divisional Officer, but the Mikir, influenced as they were by people from the Mikir Hills who wanted an amalgamation of the Mikir area with the Mikir Hills portion, would not co-operate in the joint council. Then there is the question of choosing a common representative. The Cachari being the most numerous have some advantage and the area is obviously too small for the representation of more than one in the provincial legislature. It is likely however that there will be a sufficient combination for the purpose of electing a common representative. Since this area cannot share a representative with plains areas, the population of 37,000 will have to be provided with a representative of their own. If however a local self-governing body is formed in this district it is clear that there will have to be some kind of regional arrangement by which the different tribes have their own separate councils which will then come together in the form of a council for the whole sub-division.

Like most other hill districts this area is also a deficit area. The same feeling which exists in other areas about safeguarding land and protection of the land from occupation by outsiders as well as excluding them also from other activities which may lead to exploitation prevails here. One feature of this area is that among the different tribes it is Hindustani which is more of a common language than Assamese.

7. Khasi and Jaintia Hills.—This partially excluded area consists of the Jaintia Hills formerly forming part of the Kingdom of the old Jaintia Kings and now forming the Jowai Sub-division, and some 176 villages in the Sadar Sub-division. The Khasi and Jaintia Hills as a whole consists of a large territory between the Garo Hills on the west and the North Cachar Hills and the Mikir Hills on the east. The Khasi States which consist of 1,509 villages cover the western portion of the Hills and the British villages are interlaced with them. The people of the Jowai Sub-division are known as Synteng or Pnar and speak a dialect but with the exception of a small number of Mikir on the northern slopes of the Hills, the whole population of these Hills may be regarded as uniform. Unlike their neighbours who speak Tibeto-Burman tongues the Khasi form an island of the MonKhmer linguistic family.

The Khasi States, which are about 25 in number, are some of the smallest in India. The largest States are Khyriem, Mylliem and Nongkhlaio and the smallest is Nonglewai. The system of inheritance of Chiefship is described as follows:—

“The Chiefs of these little States are generally taken from the same family inheritance going through the female. A uterine brother usually has the first claim and failing him a sister's son. The appointment is however subject to the approval of a small electoral body, and the heir-apparent is occasionally passed over, if for any reason, mental, physical or moral, he is unfit for the position. The electors are generally the myntries or lyngdohs, the representatives of the clans which go to form the State”. In Langrin, the appointment is by popular election. In some of the States, if the Myntries are not unanimous in their choice, a popular election is held. The Chiefs are known as Siem in most States; but in

some they are called Sardar, Lyngdoh in three of them and Wahadadar in one. The functions of the chiefs are largely magisterial and in the discharge of their duties they are assisted by their Myntries. The relations between them and the Government of India are based upon sanads issued to them. For specimen of these sanads Volume XII of Aitchison's Treaties Engagements and Sanads may be referred to. Under the terms of the sanad, the chiefs are placed completely under the control of the Deputy Commissioner and the Government of India and waste lands as well as minerals are ceded to the Government on condition that half the revenue is made over to the Siems. Their criminal and civil authority are also limited. The sanads do not mention the right to levy excise on liquor and drugs and presumably the Siems have that right. Though the States are not in the partially excluded areas, the main interest attaching to them is the fact that there is an understandable feeling among the people of the States that there should be a federation between the States and the British portions so that all the Khasi people are brought under a common administration. The position is that in the British areas, though there is now the franchise and a member is sent to the provincial legislature, there is no statutory local body for local self-government. The States, on the other hand, enjoy certain rights as stated above, and the problem is to bridge the gap.

The Khasi and Jaintia Hills have the advantage of the provincial headquarters Shillong, being situated among them. Literacy among the Khasi amounts to about 11 per cent. with a male literacy of 19 per cent. The district is already enfranchised and the special features which it is desirable to bear in mind is the matriarchal system prevalent there, the democratic village systems and other special customs and traditions. Cultivation in the Khasi and Jaintia Hills may be regarded as comparatively advanced. There is a good deal of wet cultivation and the culture of oranges and potatoes is common. The Khasi have also taken to non-agricultural professions much more than other hill people.

8. The Garo Hills.—Which is the butt-end of the range of hills which constitute the water shed for the Brahmaputra and the Surma Valleys. The Garo who inhabit these hills are people of Tibeto-Burman origin and are similar to the Cachari. The area of the district is 3,152 square miles and it is inhabited by a population of 233,569 of which 198,474 or nearly 85 per cent, are tribals, mainly Garo. The Garo inhabit not only the district which bears their name but there are villages inhabited by them in Kamrup and Goalpara also and portions of the Mymensingh district of Bengal joining the Garo Hills is inhabited by thousands of Garo.

The Garo are a people with a matriarchal system like the Khasi. The tribal system of the Garo is highly democratic and the whole village with the Nokma as the head or chairman takes part in the council if any matter is in dispute. The district as a whole is pretty backward with only about five literates in a hundred and lacking in communications. Christian missions have been active and there has been a certain amount of conversion but on the whole the Garo even while being able to produce a fair number of intelligent and literate people have yet to come up to the degree of the Khasi or the Lushai. Franchise at present is restricted to the Nokma but, it is unlikely that there will be any great difficulty in working a franchise system based on adult franchise than in most other areas.

In the Garo Hills also the sole occupation is agriculture and though garden crops are grown round the huts sometimes, the method is largely that of *jhuming*. The people weave their own clothes but there is no im-

portant cottage industry. The area is however much more in contact with the plains on either side of it than areas like the Lushai Hills or the Naga Hills.

The Garo are keenly desirous of uniting all the villages inhabited by Garo whether in the plains of Assam or in the Mymensingh district of Bengal under a common administration. The Bengal district of Mymensingh seems to be the home of about 48,000 Garo most of whom are on the fringe of the Garo Hills, and the question of rectification of the boundary to include this area in the Garo Hills district of Assam definitely deserves consideration. A similar examination is necessary in respect of other Garo villages in the Kamrup and Goalpara districts of Assam.

9. **The Mikir Hills.**—The partially excluded area of the Mikir Hills with an area of about 4,400 square miles and a population of about 150,000 persons is split up between two districts namely Nowgong and Sibsagar. The Mikir Hills form an area rather irregular in shape into which there projects an enclave of the Assam Valley. The western extremity of the partially excluded area actually reaches a point in the Khasi Hills and eastwards, it extends to a point not far from Dimapur while to the north it approaches Golaghat. It is clear that the irregular shape of this area makes the administration from centres outside the area rather inconvenient which apparently is the reason why the district has had to be split up between two plains districts. Being a rather sparsely populated* area with rather less than 50 persons to the square mile and containing no communications other than the railway passing through it, it has apparently not been considered suitable for treatment as a separate district. The Provincial Government has at present under consideration a proposal for the making of the whole of the Mikir Hills area into a separate sub-division, perhaps on the analogy of the North Cachar Hills Sub-division. Divided between two districts as it is and consisting of inhospitable territory in which *jhuming* is the only method of cultivation practised while malaria takes its toll, it has been sadly neglected in many ways and special steps are necessary for its development. Very obviously the present state of affairs where it is divided between two districts cannot continue if the area is to be developed and it should be made either a district or a sub-division with its headquarters somewhere in the middle of the bend so that it is accessible from both extremities. The area includes certain mouzas Barpathar and Sarupathar inhabited very largely by non-tribals which even at the time of the constitution of the partially excluded areas were considered doubtful areas for exclusion, and the Provincial Government have since taken a decision that the areas should be added to regularly administered portions as soon as possible.

The Mikir are probably the most backward of all the tribes of the Assam Hills though this backwardness is probably not their own fault. There are pockets of Mikir in the North Cachar and the Khasi Hills. Like the Garo and Khasi the Mikir desire the consolidation of their own tribesmen under a single administration. Unlike the Lushai or the Khasi Hills, Christianity has made little progress here.

While the special customs of the Mikir, their addiction to *jhuming* cultivation etc. necessitate that an arrangement must be made by which they are able to maintain their own system, the Mikir Hills at present find representation in the provincial legislature although through the restricted franchise of the headmen, and opinion generally is that there is no objection to the extension of adult franchise in the area. The sparse population

*It may be noted however that the Lushai Hills are also sparsely populated and there is no railway running through it.

may give rise to certain practical difficulties in organising elections there but it would appear that these are not insurmountable.

The Mikir Hills are inhabited to some extent by Cachari (about 2,000) Rengma Naga and a few Kuki, but on the whole, the population may be regarded as uniform.

In view of the comparatively backward state of the Mikir and the fact that there are no self-governing institutions of a statutory type locally, it is necessary in introducing institutions of this kind to arrange for a period of supervision and guidance in other words, any local council set up in the hills should at first be subject to the control of the local District or Sub-divisional officer.

(Sd.) G. N. BARDOLOI (*Chairman*).

„ J. J. M. NICHOLS ROY.

„ RUP NATH BRAHMA.

„ A. V. THAKKAR.



सत्यमेव जयते

SUMMARY OF RECOMMENDATIONS OF THE ASSAM SUB-COMMITTEE

District Councils should be set up in the Hill Districts (see Section B of Appendix A) with powers of legislation over occupation or use of land other than land comprising reserved forest under the Assam Forest Regulation of 1891 or other law applicable. This is subject to the proviso that no payment would be required for the occupation of vacant land by the Provincial Government for public purposes and private land required for public purposes by the Provincial Government will be acquired for it on payment of compensation. [Paragraph 9 Section C(1) Appendix A].

2. Reserved forests will be managed by the Provincial Government. In questions of actual management including the appointment of forest staff and the granting of contracts and leases, the susceptibilities and the legitimate desires and needs of the Hill People should be taken into account. (Para. 10).

3. On account of its disastrous effects upon the forest, rainfall and other climatic features, *jhuming* should be discouraged and stopped wherever possible but the initiative for this should come from the tribes themselves and the control of *jhuming* should be left to the local councils. (Para. 11 and Section C Appendix A).

4. All social law and custom is left to be controlled or regulated by the tribes [Para. 12 and Section C (2) of Appendix A]. All criminal offences except those punishable with death, transportation or imprisonment for five years and upwards should be left to be dealt with in accordance with local practice and the Code of Criminal Procedure will not apply to such cases. As regards the serious offences punishable with imprisonment of five years or more they should be tried henceforth regularly under the Criminal Procedure Code. To try such cases, powers should be conferred by the Provincial Government wherever suitable upon tribal councils or courts set up by the district councils themselves.

All ordinary civil suits should be disposed of by tribal courts and local councils may have full powers to deal with them including appeal and revision.

Where non-tribals are involved, civil or criminal cases should be tried under the regular law and the Provincial Government should make suitable arrangements for the expeditious disposal of such cases by employing circuit magistrates or judges. (Para. 12 Section D & F of Appendix A).

5. The District Councils should have powers of management over primary schools, dispensaries and other institutions which normally come under the scope of local self-governing institutions in the plains. They should have full control over primary education. As regards secondary school education, there should be some integration with the general system of the province and it is left open to the Provincial Government to entrust local councils with responsibility for secondary schools wherever they find this suitable. (Paragraph 13 and Section E of Appendix A).

For the Mikir and North Cachar Hills the District or Sub-Divisional Officer, as the case may be, should be *ex-officio* President of the local council with powers, subject to the control of the Government of Assam, to modify or annul resolutions or decisions of the local councils and to issue such instructions as may be necessary. [Paragraph 13 and Section B(5) of Appendix A].

6. Certain taxes and financial powers should be allocated to the councils. They should have all the powers which local bodies in regulation district enjoy and in addition they should have powers to impose house tax or poll tax, land revenue and levies arising out of the powers of management of village forest. [Section H of Appendix A and Para. 14(a)].

Statutory provision for a fixed proportion of provincial funds to be spent on the hill districts is not considered practicable. A separate financial statement for each hill district showing the revenue derived from the district and the expenditure proposed on it is recommended. The framing of a suitable programme of development should be enjoined either by statute or by Instrument of Instructions. [Section M of Appendix A and para. 14(b)].

It is quite clear that the urgent requirements of the hill districts by way of expenditure on development schemes are beyond the resources of the Provincial Government. The development of the hill districts should be as much the concern of the Federal Government as the Provincial Government. Financial assistance should be provided by the Federation to meet the deficit in the ordinary administration on the basis of the average deficit during the past three years and the cost of development schemes should also be borne by the Central Exchequer. [Section N of Appendix A and para. 14(c)].

The claim of the hill district councils for assistance from general provincial revenues to the extent that they are unable to raise the necessary finances within their own powers is recognised. [Paragraph 14(d)].

7. If local councils decide by a majority of three-fourths of their members to licence moneylenders or traders they should have powers to require moneylenders and professional dealers from outside to take out licences. (Paragraph 15 and Section J of Appendix A).

8. The management of mineral resources should be centralised in the hands of the Provincial Government but the right of the district councils to a fair share of the revenues is recognised. No licence or lease shall be given by the Provincial Government except in consultation with the local Council. If there is no agreement between the Provincial Government and the district council regarding the share of the revenue, the Governor will decide the matter in his discretion. (Paragraph 16 and Section 1 of Appendix A).

9. Provincial legislation which deals with the subjects in which the hill councils have legislative powers will not apply to the hill districts. Legislation prohibiting the consumption of non-distilled liquors like Zu will also not apply; the district council may however apply the legislation. (Paragraph 17 and Section L of Appendix A).

10. It is necessary to provide for the creation of regional councils for the different tribes inhabiting an autonomous district if they so desire. Regional councils have powers limited to their customary law and the

management of lands and villages and courts. Regional councils may delegate their powers to the district councils. [Para. 18 and Section B(4) of Appendix A].

11. The Governor is empowered to set aside any act or resolution of the council if the safety of the country is prejudiced and to take such action as may be necessary including dissolution of the local councils subject to the approval of the legislature. The Governor is also given powers to dissolve the council if gross mismanagement is reported by a commission. (Paragraph 19 and Section Q and R of Appendix A).

12. The Central Government should continue to administer the Frontier Tracts and Tribal Area with the Government of Assam as its agent until administration has been satisfactorily established over a sufficiently wide area. Areas over which administration has been satisfactorily established may be taken over by the Provincial Government with the approval of the Federal Government. [Section P of Appendix A and para. 20(a)].

The pace of extending administration should be greatly accelerated and separate officers appointed for the Lohit Valley, the Siang Valley and the Naga Tribal Area. [Para. 20 (a)].

The Lakhimpur Frontier Tract should be attached to the regular administration of the district. The case of the portion of the Lakhimpur Frontier Tract recently included in the Tirap Frontier Tract should be examined by the Provincial Government with a view to a decision whether it could immediately be brought under provincial administration. A similar examination of the position in the plains portions of the Sadiya Frontier Tract is recommended. The portion of the Balipara Frontier Tract around Charduar should also be subject to a similar examination. [Para. 20(b)].

Posa payment should be continued. [Para. 20(c)].

13. The excluded areas other than the Frontier Tracts should be enfranchised immediately and restrictions on the franchise in the Garo and Mikir Hills should be removed and adult franchise introduced. [Para. 21(a) and Section B(1) of Appendix A].

Weightage is not considered necessary but the hill districts should be represented in the provincial legislature in proportion not less than what is due on their population even if this involves a certain weightage in rounding off. The total number of representatives for the hills thus arrived at [See para. 21(b)] should not be taken into account in determining the number of representatives to the provincial legislature from the rest of Assam. [Para. 21(b) and Section K of Appendix A].

The total population of the hill districts justifies a seat for the hill tribes in the Federal Legislature on the scale proposed in Section 13(c) of the Draft Union Constitution. [Para. 21(c)].

Joint electorate is recommended but constituencies are confined to the autonomous districts. Reservation of seats, in view of this restriction, is not necessary. [Para. 21(d) and Section K(3) of Appendix A].

Non-tribals should not be eligible for election from hill constituencies except in the constituency which includes the Municipality and Cantonment of Shillong. [Para. 21(e) and Section K(8) of Appendix A].

14. Representation for the hills in the Ministry should be guaranteed by statutory provision if possible or at least by a suitable instruction in

the Instrument of Instructions or corresponding provision. [Paragraph 22—See also Section O(3) of Appendix A].

15. Non-tribal officials should not be barred from serving in the hills but they should be selected with care if posted to the hills. The appointment of a due proportion of hill people in the services should be particularly kept in mind and provided for in rules or executive instructions of the Provincial Government. (Paragraph 23).

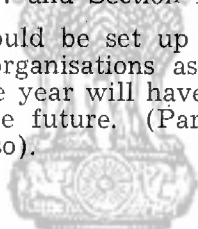
16. A commission may be appointed at any time or permanently to enable the Government to watch the progress of development plans or to examine any particular aspects of the administration. [Paragraph 24 and Section O(i) of Appendix A].

17. Plains tribals number 1·6 million. Their case for special representation and safeguards should be considered by the Minorities Sub-Committee. (Para. 25).

18. The question of altering boundaries so as to bring the people of the same tribe under a common administration should be considered by the Provincial Government. The Barpathar and Sarupathar Mouzas included in the Mikir Hills should be included in the regularly administered areas henceforth. (Paragraph 26).

19. Non-tribal residents may be provided with representation in the local councils if they are sufficiently numerous. For this purpose non-tribal constituencies may be formed if justified and if the population is not below 500. [Paragraph 27 and Section B(2) of Appendix A].

20. Provincial councils should be set up by the Governor of Assam after consulting such local organisations as exist. These provisional councils which will be for one year will have powers to frame their own constitution and rules for the future. (Paragraph 29 and Transitional Provisions of Appendix A also).



सत्यमेव जयते

REPORT OF THE EXCLUDED AND PARTIALLY EXCLUDED AREAS
(OTHER THAN ASSAM) SUB-COMMITTEE

Sub-Committee

1. Shri A. V. Thakkar—Chairman.

Members:

2. Shri Jaipal Singh.

3. Shri Devendra Nath Samanta.

4. Shri Phul Bhanu Shah.

5. The Hon'ble Shri Jagjivan Ram.

6. The Hon'ble Dr. Profulla Chandra Ghosh.

7. Shri Raj Krushna Bose.

Co-opted Members:

8. Shri Khetramani Panda—Phulbani Area.

9. Shri Sadasiv Tripathi—Orissa P. E. Areas.

10. Shri Kodanda Ramiah—Madras P. E. Areas.

11. Shri Sneha Kumar Chakma—Chittagong Hill Tracts.

12. Shri Damber Singh Gurung—Darjeeling District.

Secretary:

13. Mr. R. K. Ramadhyani, I.C.S.



From

THE CHAIRMAN, EXCLUDED & PARTIALLY EXCLUDED AREAS (OTHER
THAN ASSAM) SUB-COMMITTEE.

To

THE CHAIRMAN, ADVISORY COMMITTEE ON FUNDAMENTAL RIGHTS, ETC.

SIR,

I have the honour to submit herewith the Report of my Sub-Committee for the Excluded and Partially Excluded Areas of Provinces other than Assam. We have visited the Provinces of Madras, Bombay, Bengal, Central Provinces and Orissa, and in regard to these Provinces our recommendations may be taken as final. We have yet to visit Bihar and the United Provinces and to examine certain witnesses from the Punjab. In respect of these Provinces, the Report may kindly be treated as provisional. Our final Report is expected to be ready by the end of September.

I have the honour to be,

Sir,

Your most obedient servant,

A. V. THAKKAR,

Chairman,

*Excluded & Partially Excluded Areas
(other than Assam) Sub-Committee.*

NEW DELHI;

The 18th August 1947.



सत्यमेव जयते

INTERIM REPORT

Introductory.—Appendix A shows the excluded and partially excluded areas for which we are required to submit a scheme of administration. Appendix B contains certain statistical information and the thirteenth schedule to the Government of India (Provincial Legislative Assemblies) Order 1936, which shows the different tribes classed as backward, and among these tribes are to be found the inhabitants of the excluded and partially excluded areas. In determining the areas to be classified as excluded or partially excluded, the Secretary of State for India issued instructions that exclusion must be based upon strict necessity and must be as limited as possible in scope consistently with the needs of the aboriginal population. As regards partial exclusion, he considered that *prima facie* any area containing a preponderance of aborigines or very backward people which was of sufficient size to make possible the application to it of special legislation and which was susceptible, without inconvenience, of special administrative treatment should be partially excluded. The Government of India in making recommendations for partial exclusion kept in view the possibility of obtaining convenient blocks of territory with readily recognisable boundaries susceptible of special administrative treatment without inconvenience. Thus, the excluded and partially excluded areas are well defined areas populated either predominantly or to a considerable extent by aboriginals. The excluded and partially excluded areas, however, do not by any means cover the entire population of tribal origin, and in many cases represent only a comparatively small proportion of the aboriginal population, the rest of them being scattered over non-excluded areas. As an example, in the C.P., out of 299 millions of tribals of all religions, only 8·3 lakhs live in the partially excluded areas. With the exception of the Mandla District, which is a partially excluded area and contains 60·5 per cent. of tribals, Betul and Chhindwara districts which include partially excluded areas and contain 38·4 and 38·3 respectively of tribals, the tribals are scattered all over the province and comprise almost a fifth of the population in some districts. This kind of intermingling is prominently noticeable in Bombay and Bengal and to some extent in other provinces also. In Bengal notably, the tribal population of the excluded areas is but a small fraction of the total tribal population of the province. A common feature of the partially excluded areas is that they are generally located in the out of the way and hilly tracts, and it is in these areas that concentrations of aboriginal population may be found. In the non-excluded areas although small blocks of them can be distinguished, notably in the Madras Presidency, elsewhere, they are interspersed with the rest of the population and are sometimes hardly distinguishable from the general population. Although our terms of reference strictly require us to report on the excluded areas, the total population of tribals in the non-excluded portions of British India not including Assam comes to about 5·5 millions, and we consider therefore that our recommendations should not altogether leave out of consideration such a large population who in many respects are in a very backward condition. We have felt it therefore necessary to recommend that the whole tribal population should be treated as a minority community for the welfare of whom certain special measures are necessary. Bearing this in mind, we proceed to discuss the general features of the tribal population in the different provinces.

2. The Excluded Areas.—The excluded areas are few in number and consist of the islands of the Laccadive group on the West Coast of Madras, the Chittagong Hill Tracts in Bengal and the Waziris of Spiti and Lahoul in the Punjab. Of these tracts, the West Coast Islands and the Waziris of the Punjab are isolated from the rest of the province on account of their geographical position and the impossibility of communicating with them during a part of the year. The West Coast islands are cut off from the mainland for several months during the monsoon. Similarly, the Punjab Waziris are isolated during the winter when snow blocks the passes. Inaccessibility of these areas is largely responsible for their exclusion as well as for the backward condition of their inhabitants. The position in these areas is briefly given below:—

(a) *Madras.*—The islands may be considered to fall in three divisions, the Amindivi islands opposite the South Canara coast, the Laccadives attached to Malabar and Minicoy, the southernmost of them, also attached to Malabar. The total area is about 10 square miles and the population, all Muslim, 18,355. The Minicoy islanders are of Sinhalese origin while the inhabitants of the others are akin to the Mapillah of Malabar. The economy of the islands is based on the coconut palm and the produce (coir production is a whole family job) is exchanged for rice and other necessities. The administration is carried on largely by customary laws and special regulations. An amin, or monegar (Amindivi) with powers to try petty criminal and civil cases is the official immediately in contact with the islanders and the amin is in fact selected from the islanders. In the Minicoy island, literacy is said to be cent. per cent.; in the others, it is negligible. There is no appreciable intercourse between the islands of the three groups and their geographical position necessitates separate treatment. While they are located in a strategic position, we understand that the islands are not suitable for naval stations as they are coral islands and there is difficulty in getting fresh water. Hitherto, they have been administered practically in the manner in which relations were started with them in the days of John Company. Rs. 2 lakhs are spent, partly by way of doles including gifts of combs and mirrors, on the visits of the Collector or other official to the islands, but no attempt seems to have been made to increase intercourse between the islands and the mainland.

(b) *Punjab.*—The excluded area consists of Spiti and Lahoul with an area of 2,931 and 1,764 square miles respectively. Spiti has a population of only 3,700 and Lahoul about 9,000 (1941). The people are of Tibetan origin and Budhists. The main difficulty about the areas is the difficulty of communication as the passes leading to them are blocked by snow in the winter.

The Provincial Government have now come to the conclusion that Lahoul need no longer be considered as excluded area and should be brought under the general system of administration.

The cultivation of *kuth* has brought some economic prosperity to this area and many Lahoulis have taken to trade also. Spiti is still economically in a backward condition and the schools there are not flourishing. Spiti has still very little of the contact with the plains which Lahoul has. Several agrarian laws have not been applied to Spiti particularly though the most important enactments are now in force without modification.

(c) *Bengal*.—The Chittagong Hill Tracts on the other hand, are not inhabited by a population of Burmese and tribal extraction. They cover an area of about 5,000 square miles and contain a total population of 247,053, mostly Buddhists. In 1941, there were 9,395 literates including 622 females among the tribes out of a population of 233,392. There are 154 schools and a High School at Rangamati. There is a good deal of contact with the plains people in the western portion of the tract, but the eastern portion towards the Lushai Hills and the Burmese border is more primitive.

Jhuming cultivation is practised almost universally and it would appear that there are considerable difficulties in the way of terraced or wet cultivation on account of the friable nature of the hill sides and the difficulty of irrigation. Some settled cultivation also exists and it may happen that a family does both kinds of cultivation. Both plough rent and *jhum* tax are levied. Pressure on the land is increasing and the tribes are greatly apprehensive of encroachment by outsiders.

Weaving and tapestry is a common household occupation but cannot be said to be a cottage industry though it has potentialities in that direction. The district is deficit to the extent of about Rs. 2 lakhs.

The special feature of the Chittagong Hill Tracts are the Chiefs, the Chakma Raja, the Bohmong and Mong Raja. The tract is divided into three circles representing the jurisdiction of the Chief. The Chakma circle is the largest and is 2,499 square miles; the Bohmong and Mong circles are 1,935 and 704 square miles respectively. The Chiefs have certain magisterial and appellate powers and out of the *jhum* tax of Rs. 6 per family, Rs. 2-8-0 goes to the Chief, Rs. 2-4-0 to the headman and Rs. 1-4-0 to the Government. On the ground that they are really tributary powers, the Chiefs are claiming the status of Indian States and desire that three States corresponding to the circles should be set up. It is claimed that before the *jhum* tax was imposed there was a capitation or family tax and that the right to levy this tax was a symbol of sovereignty. In 1928, a report on the position of the chiefs was submitted by Mr. Mills who recommended that the chiefs should be relieved of the collection of *jhum* tax and should also be relieved of their magisterial duties, the powers of Honorary Magistrates being conferred on them if they were proved fit. His idea was that "they were the leaders of their people and in that lay their value" and they should therefore be consulted in all important matters of the administration. Their position and future is a matter of some importance and needs careful examination by the Provincial Government. We do not feel that we can express a carefully considered opinion.

Now that Bengal is to be partitioned, the future administration of the Hill Tracts appears to lie with Assam. The Lushai Hills form in part the hinterland of this district and though communications to the east are not easy, they are not more difficult than with Chittagong. The Karnafuli provides a waterway to Demagiri which is connected with Lungleh in the Lushai Hills. The Chakma, Magh and Mro of these Hills have probably their tribal origin in common with the Lushais and in any case the province of Assam is the home of many different tribes. It is obvious that the Hill Tracts should not go to East Bengal in view of its predominantly non-Muslim population. The people themselves are strongly averse to inclusion in Bengal. They desired that the area should be set up as an autonomous district.

3. Partially Excluded Areas.—The main feature of the Partially Excluded Areas is that they are not altogether excluded from the scope of the Provincial Ministries like the excluded areas nor is the expenditure

on them outside the scope of the legislature. In fact the administration of the areas notably of the C. P. and Bombay has not been appreciably different from the rest of the province and the Provincial Governments were in greater or less degree opposed to their exclusion. It is in the Agency Tracts of Madras and Orissa and in the Santal Parganas that a different system prevails. A brief account of the areas of each province follows:—

(a) *Madras*.—The partially excluded areas consist of the East Godavari Agency, the Polavaram taluq of West Godavari Agency. The total area is 6,792 square miles and the total population 493,006 of which about 278,000 are tribal, and 54,000 are classed as backward making a total percentage of 67·6. The tribes inhabiting these tracts are Koya, Koya Dora, Hill Reddy, Dombo, Kondh and others. The tribes are pretty backward on the whole and do podu (shifting cultivation) largely. Except manual labour they have no non-agricultural occupations worth mentioning. There are special agency rules and save for certain sections the Civil Procedure Code does not apply. Crime is scarce and the aborigines are simple and truthful. The mechanism of justice therefore needs to be a simple one.

There are no local self-governing bodies and tribal panchayats do not seem to be fit for work other than the decision of petty disputes. The toddy palm plays a large part in the life of aborigines. They have suffered in the past through exploitation by money-lenders and landlords and incidents like the Rampa rebellion have occurred in the areas. Licensing of moneylenders, as agreed by the Collector of West Godavari, is probably a definite need of these parts in addition to the prevention of acquisition of land by non-aborigines.

Yaws and malaria are very common in these parts.

(b) *Bombay*.—The partially excluded areas which are to be bound in the districts of West Khandesh, East Khandesh, Nasik, Thana, Broach and Panch Mahals cover an area of 6,697 square miles and contain a population of 1,125,471 of which 663,628 or 58·9 per cent. are tribals. The tribes are largely Bhil, Varli, Kokna, Thakur and Katkari. In 1935, the Government of Bombay were not in favour of exclusion of any area except the Mewasi Chiefs Estates and the Akrani Mahal in the West Khandesh District on the ground that the administration of these areas was all along carried on in the same manner as the other tracts and that there were local self-governing institutions in the areas. The Akrani Mahal in the Satpura Hills is an almost purely Bhil area and probably the one with the least contact with the plains.

In 1937, the Government of Bombay appointed Mr. D. Symington to conduct a special enquiry into the conditions prevailing in the aboriginal areas. Mr. Symington pointed out that the local boards were largely or even exclusively run by non-Bhil elected members and opined that it was not a mere question of providing seats for the hill tribes but that these people were not sufficiently educated and advanced either to use their votes sensibly or to produce from among themselves enough representatives capable of looking after their interests intelligently on local boards. "They are not only illiterate but also ignorant of everything outside their daily run. They are contemptuous of education which they regard as a degrading and senseless waste of time. They have more faith in witch-doctors than in pharmacopoeia. They live near the border line of starvation. They are inveterate drunkards. It was not surprising that they

take no interest in the local boards elections or local board administration." He also expressed the opinion that the salvation of the aboriginal lay in protecting him from exploitation by the moneylenders who were gradually depriving him of his land, and stopping the drink habit. Giving evidence before us, he reiterated the view that elections would be completely useless so far as these people were concerned.

Among the Thadvi Bhils (Muslims) there is a Sub-Judge. Among the half dozen graduates from the Bhils there is Mr. Natwadkar, the M.L.A. from West Khandesh and there is a lady from the Panch Mahals. The demand for education is however becoming very keen.

In the Warli areas of the Thana District visited by us practically all the land had been taken up by non-tribals and the tribals were reduced to the condition of landless serfs. The Bombay Government have in fact now found it necessary to pass special legislation to prevent alienation of land. On account of the acquisition of all the land by a few people, the land system in this tract has been virtually transformed from a ryotwari system to a system similar to the *malguzari* system of the Central Provinces.

(c) *Central Provinces & Berar*.—The partially excluded areas, of which Mandla District is the largest unit, contain only 833,143 tribals out of a total tribal population of nearly 3 millions. The Gond (including Maria and Pardhan) is the main tribe in the C.P. and the Korku in the Melghat are prominent in Berar. Although backward and adhering largely to their own customs and ways in the areas where they are still most numerous, the tribes have in appreciable degree assimilated the life of the rest of the population and tribal institutions are either weak or practically non-existent. Mostly the tribes have taken to settled cultivation and there is little *bewar* or *dahia* in the province. Of handicrafts and cottage industries, however, there is next to nothing and this is the great weakness of the aboriginal economy. The aboriginal is given to drink but opinion in favour of temperance or prohibition seems to be gaining ground.

The partially excluded areas are, with hardly any exception, administered in the same manner as the other districts. The C. P. Land Alienation Act of 1916 is the only notable legislation enacted especially for the protection of the aboriginals and restricts the transfer of agricultural land from aboriginal to non-aboriginal classes. In 1940, when the C. P. Tenancy Act was amended to confer rights of alienation on certain classes of tenants, the application of the amending Act to the partially excluded areas was made subject to certain modifications designed to secure that unscrupulous landlords would not manipulate to their own advantage the complicated provisions of the Act.

A special enquiry into the problems of the aboriginals was ordered by the C. P. Government and a report was submitted by Mr. W. V. Grigson in 1942. Among the points made by Mr. Grigson were the weakness of the tribal representatives in the local boards and the need for provisions to prevent the application of legislation to aboriginal areas except after special consideration. Mr. Grigson was also examined by us as a witness and expressed himself in favour of a system of indirect election for the aboriginals. Opinion of a number of C.P. witnesses was not in favour of reserved representation for the aboriginals in proportion to their population. Some witnesses preferred nomination out of a panel submitted by the District Officers. At present there are three tribal members in the Legislature although only one seat is reserved.

The Provincial Government have now created a special Department and inaugurated a scheme of development of the aboriginal areas in which multipurpose co-operative societies play a prominent part. Opinion in the C.P. (as in Bombay) was strongly in favour of boarding schools with free meals as the only way of making schooling acceptable to the aboriginals.

(d) *Orissa*.—This province contains a partially excluded area of nearly 20,000 sq. miles, i.e., almost two-thirds of the province is partially excluded. The partially excluded area includes the portions of the Madras Agency Tracts transferred to Orissa, the Khondmals of the former Angul District and the Sambalpur District which was formerly in the C.P. The total tribal population of the province is 1,721,006 of which 1,560,104 are found in the partially excluded areas. The tribes inhabiting this province are among the most backward in the whole of India. The Bonda, Porja, Gadaba, Kondh and Savara are among the most important of them. In 1939 the Orissa Government appointed a special committee to make recommendations for the partially excluded areas (Thakkar Committee) which found that some tracts were too backward to administer even local boards. Although they have representatives in the legislature, four of the five reserved seats are filled in by nomination and some of the nominated members have to be non-tribals. The percentage of literacy in the Agency Tracts is about one per cent. A backward Classes Welfare Department has recently been set up. The Thakkar Committee made a number of important recommendations which could not be given effect to during the war and are now being taken up.

Apart from the Khondmals which are now attached to the Ganjam Agency, the Angul Sub-division which is a partially excluded area has only 13,308 tribals who form 8 per cent. of its population. The Thakkar Committee recommended the administration of this area as a regular district and pointed out that the Angul Laws Regulation is no longer suited to the advanced condition of the people. Even in 1935, it was stated by the Orissa Government that the area was so advanced that it should be possible within a few years to place it on a level with the normal districts (para. 49, Recommendations of Provincial Governments and the Government of India, Indian Reprint).

The District of Sambalpur was made a partially excluded area largely on account of the special system of that district, viz., the distinct system of revenue and village administration. The district was formerly part of the C.P. and the C.P. Revenue Laws and type of village administration were in force. The aboriginal population of the district is 252,095 and constitutes 19.6 per cent., but most of these tribals seem to have assimilated the customs and culture of the surrounding Hindu population. The administration of the district though differing from the rest of Orissa was not radically different from the administration of the C.P. plains districts until 1921. Three of the Zamindaris of Sambalpur had been declared scheduled districts under the Act of 1874, but with the exception of the Insolvency Act of 1920 all other legislation was applied to the district. The Thakkar Committee recommended (para. 397) that the district should cease to be a partially excluded area and should be treated as a normally administered area. The Committee however considered (para. 402) that some sort of protection was still needed for the aboriginals of that district and recommended certain special measures for the protection of the land of the aboriginals (para. 403). The tribes in this district consist mainly of Gond (102,765), Kondh, Kharia and Savara. They are concentrated largely in the Sadar Sub-division of the district. Literacy among them is not up to the level of the Scheduled Castes of the District

and amounts to only about 2 per cent. They however take part in elections and in the Sambalpur Sadar constituency there is a reserved seat for the backward tribes. This is the only one of the five tribal seats in the province which is filled by election.

The question of representation for the Orissa tribes presents somewhat of a problem. Local officials had serious doubts as to the possibility of finding suitable representatives from among them, at any rate in proportion to their population. The Provincial Government have similar hesitations. In their factual memorandum (p. 28) they have recommended that local bodies should be partly elected and partly nominated. For the Provincial Legislature, "a specific number of seats should be reserved for aboriginal members in general constituencies; but the aboriginal members should be elected to these seats by a system of indirect or group election."

(e) *Bengal*.—The partially excluded areas of Bengal consist of the District of Darjeeling and certain police station areas in the Mymensingh district which border on the Garo Hills of Assam.

The Darjeeling District is shown to contain 141,301 tribes out of a total population of 376,369 in 1941. The tribal population of the district seems to consist largely of labour employed in the tea gardens and some Lepcha and Bhotia. Actually, the latter are only about 20,000 in number. The prominent community in Darjeeling is the Gurkha or Nepalese community which numbers about 2½ lakhs. A good many are employed in the tea gardens and the local police force also contains a high proportion of them. The Gurkha are not regarded as a backward tribe and the thirteenth schedule to the Government of India (Legislative Assemblies) Order does not include Gurkha. They feel however neglected so far as other ranks of Government service are concerned and in the trade and business of the place, the Marwari has the upper hand. On the other hand, the small community of Lepcha (12,000) finds itself dominated by the Gurkha and one of the complaints is that their land (the Lepcha claim to be the original inhabitants) has been gradually taken away from them by Nepalese immigrants.

The partial exclusion of Darjeeling was recommended by the Govt. of Bengal not because it was considered as a backward area but because it was felt that safeguards were necessary in the interests of the hill people. The fact that Darjeeling was the summer capital of the Government of Bengal and the existence of European tea-planters may have played some little part. The 1941 census shows that even among the tribals (mostly tea garden coolies) there was 16,450 literates out of a total population of 141,301 and 2,571 of these were women.

The local bodies (Municipality and District Board) are not wholly elected bodies and the Deputy Commissioner is the President of the Municipality. Undoubtedly the land of the hill tribes needs to be protected from the maw of money lenders but there is little case otherwise for continuing partial exclusion or special administration.

The Gurkha League desires that there should be an elected Advisory Council in the District so that the interests of the Gurkhas in representation in the services, in the land and industry of the district may be protected. They have also sponsored a movement for union with Assam where there is a strong Gurkha element.

As regards the partially excluded portion of the Mymensingh District, there are about 49,000 Garo in all but according to the census, some of

the thanas contain very few tribes. The provincial Govt. were opposed to its partial exclusion in 1935. They pointed out that no special measures had been hitherto necessary to protect the tribe and had no indication at any time that the existing administrative system had worked inequitably for them. It would appear that the partial exclusion of this area was consequential upon the exclusion of the Garo Hills District in Assam. The Garo of this area are keenly desirous of being united with the Garo of Assam under a common administration, and in view of the division of Bengal there is a good case for rectification of the boundary, i.e. to include the Garo area in the Garo Hills Districts of Assam. The majority of the population of the partially excluded area (5.94 lakhs) consists however of non-tribals and it will be necessary therefore, to draw a fresh boundary.

(f) Bihar.—The Partially Excluded Areas of this province extend over the enormous area of 32,45 sq. miles comprising the whole of Chota Nagpur division and the Santhal Parganas District. The total population of the area is 9,750,846 and nearly 4.5 million of these are tribal people consisting of Santhal, Oraon, Munda, Ho, Bhumij and other lesser tribes of the Kolarian family. Although the general level of literacy and development in this area is lower than that of the non-aboriginal population, the tribes people here are rapidly advancing and quite a number of people in the learned professions may be found among the Munda and Oraon. Local self-governing institutions exist, and there is no question that the area would be able to take part intelligently in the administration of the province. The main feature of this area may be summarized in the words of the Provincial Government in recommending partial exclusion: "The Special Tenancy Laws in Chota Nagpur, the Santhal Parganas, *Sambalpur and *Angul are the bulwark of the backward peoples. The legislatures of the future would have the power to amend, modify or even repeal those laws and the only safeguard against legislative action detrimental to the interests of backward peoples is the power of the Governor to refuse assent.The importance of these special Tenancy Laws to the aboriginals cannot be overstressed. The history of the Santhal Parganas and Chota Nagpur was one of continuous exploitation and dispossession of the aboriginals punctuated by disorder and even rebellion until special and adequate protection was given in the fringe areas, such as Manbhum, where the non-aboriginals are in a majority, the aboriginal element would probably have been driven from the land long ago but for the protection given by tenancy laws.The fate of the aboriginal where he has been unprotected has usually been to lose his land.....". In the Santhal Parganas, legislation since 1855 has been mainly by means of special regulations framed by the Governor-General-in-Council. The main function of these regulations was to regulate *inter alia* the agrarian laws, the constitution of courts and their procedure, moneylending and the village police. Except in the most important cases the jurisdiction of the High Court was excluded and judicial procedure simplified. In the Kolhanpir of the Singhbhum District also, the Civil Procedure Code was replaced by simplified rules but generally speaking, the laws of the rest of the province operate in Chota Nagpur. For a detailed account, the Factual Memorandum of the Provincial Government may be referred to (pp. 97-98, Excluded and Partially Excluded Areas—I). Since 1937, section 92(2) of the Government of India Act has been made use of to frame some special regulations notably for the Santhal Parganas.

*Now in Orissa.

The population of Chota Nagpur and the Santhal Parganas is rather mixed and except in the Ranchi District, the Singhbhum District and the Santhal Parganas, the tribal population are in a minority. In their Factual Memorandum, the Bihar Government have pointed out that a comparison between the figures of 1941 and 1931 census shows that there is room for doubting the accuracy of the figures of the 1941 census. Recently an agitation has been started for the formation of a separate Chota Nagpur Province on the ground that this land is the land of the aboriginal residents who are distinct from the inhabitants of the plains in many ways. Taken as a whole, the tribals form only 45.6 per cent of the total population of the Partially Excluded Areas and in Chota Nagpur they constitute 44.2 per cent of the population. Only in Ranchi (70 per cent.), Singhbhum (58.4 per cent) and Santal Parganas (50.6 per cent.) are they in anything like a majority. The creation of a separate province is a matter outside the scope of our enquiry and we do not find that this is in fact necessary for the satisfactory administration of the tribals.

(2) *United Provinces.*—The partially excluded areas are the Pargana inhabited by the Jaunsari tribes in the north and the portion of the Mirzapur District below the Kaimur Range inhabited by mixed tribes of Chota Nagpur and Central India. The area is 483 sq. miles in the Dehra Dun District and 1,766 sq. miles in the Mirzapur District. The total population of both areas is about 200,000.

The Jaunsar Bawar Pargana forms the watershed between the Jumna and the Tons. The country is hilly and offers little land for cultivation. It appears that most of the cultivable land is held by Brahmins and Rajputs and that the Koltas (Scheduled Caste) are debarred from possession of land according to the village Wazibul-arz and occupy practically the position of serfs. Though the great majority of the people are Hindus, polyandry and special systems of divorce are in vogue since ancient times. Although the area is under the criminal jurisdiction of the High Court a simplified system of criminal, civil and revenue administration is followed and except in Chakrata Cantonment, regular police are not employed. For civil law, the Commissioner, Meerut, acts as a High Court. The Excise and Opium Acts have not been extended to the area and opium cultivation is permitted. There is great illiteracy in the area and the administration will have to be suited to the life of the inhabitants. In Khat Haripur Bias at the foot of the hills however conditions are different and approximate to those in the plains. The Khat Haripur Bias Tenants Protection Regulation of 1940 has afforded some protection to the tenants. The Provincial Government are of the view that this Khat should be included in the Dehra Dun Tahsil. Though the area is enfranchised and is included in the Dehra Dun rural constituency, it is considered incapable of sending representatives to the legislature.

As regards the Mirzapur District, the excluded area consists of four parganas of which only the Agori and Bijaigarh parganas have a concentration of aboriginals. The population consists of a number of tribes having affinities to the tribes in the neighbouring provinces from which they have come. There is no strong tribal life left among them. Their occupations are said to be those usually followed by the Scheduled Castes and in their religious and social customs they are similar to low-caste Hindus.

The land revenue system of this area is different from the rest of the Province and is based on a plough tax. The non-agricultural classes

are gradually acquiring land from the aboriginal. The Tahsildars of the tract who exercise magisterial functions are Munsifs also. Except in relation to suits of succession and divorce, the Court of the Commissioner is the highest court of appeal in civil suits. The area is under the jurisdiction of the District Board of Mirzapur.

The Provincial Government are of the view that there is no justification for this area being treated differently from the rest of the province and that normal administration should be extended to it immediately.

4. Political Experience.—The people of the excluded areas have no experience of local self-governing institutions of the modern or statutory type and are of course not represented in the legislature. The management of a Local Board is perhaps likely to be a much bigger undertaking for the people of these areas than the mere election of a representative to the legislature and the establishment of such bodies needs perhaps a period of official guidance and control, particularly in areas like the Madras islands. The partially excluded areas on the other hand are all included in electoral constituencies of the provincial legislatures and with the exception of the Agency tracts of Madras and Orissa,* the Santal Parganas and Jaunsar Bawar, are covered by local boards also. There are certain reserved constituencies, viz., Bihar 7, Orissa 5, Madras 1, Bombay 1 and C. P. 1. In Orissa, four of the five members are selected by nomination. Unlike Assam, no reservation of seats had been made for tribals of the plains or non-excluded areas and these vote along with general voters. In Bombay, C. P. and Chota Nagpur, the tribals though reported to be apathetic and showed aside by non-tribals, have known, at least nominally, such bodies as local boards. Nevertheless it is likely to take some time before there is sufficient interest in these bodies and probably interest in local self-government will have to be built up from the village stage. Although as shown by Mr. Grigson in his report, the tribals cast their vote as copiously as others, they have yet to learn to utilise its powers to their own advantage.

5. Effects of Exclusion.—Although exclusion or partial exclusion has been in force for a number of years now, the benefits which the areas have derived from it are not particularly noticeable. In the case of the excluded areas, the sole responsibility for the administration has lain upon the Governor and the revenues earmarked for these areas have been outside the vote of the provincial legislature. No definite programme for the development of the excluded areas with a view to removing the disability of exclusion has been followed. The introduction of *kuth* cultivation in Lahaul has brought it some economic prosperity but the West Coast islands are probably no better off than they were ten or twelve years ago, and in the Chittagong Hill Tracts no great impetus to enlightenment is perceptible. On the other hand, in the partially excluded areas also little improvement is as yet visible although in Bombay an inquiry into the conditions of the aboriginals was started as early as 1937. A Backward Class Department and Board have also been functioning in Bombay. Other provinces have since taken the cue and welfare work now seems to be forging ahead but it is perhaps the general interest in the backward classes which is responsible rather than the system of partial exclusion as such. The remarks of the Orissa Government are of interest: "The system of partial exclusion has also been a most unsatisfactory constitutional device. In matters of administration of the partially excluded areas, the Ministers tender advice to the Governor, with whom the ultimate responsibility for the good Government of these areas rests. He may accept or reject such advice. The system suffers from a fundamental defect; the

* In the Koraput District there is a District Board with the Collector as President.

responsibility is shared between the Governor, and the Ministry answerable to the people of this country or their elected representatives." No less responsible is perhaps the fact that the representatives of the partially excluded areas have not been capable of bringing sufficient pressure and influence to bear on the Ministry. Further, some of the partially excluded areas which constitute small pockets in large districts and constituencies could apparently be lost sight of and their interests subordinated to those of the larger areas in which they were contained. Some of the C.P. excluded areas situated in the Chhindwara and Bilaspur districts may be particularly noticed in this connection. They constitute comparatively small islands of partial exclusion which have little voice in a large constituency. The greatest weakness of the scheme of partial exclusion is perhaps the fact that it left areas weakly or only nominally represented in the legislature without any special financial provisions. Whatever the reasons may be, the conclusion to be drawn from the state of affairs noticed by us is that partial exclusion or exclusion has been of very little practical value. There has been neither educational nor economic development on any appreciable scale. The object of special administration has thus not been achieved, and it is clear that if the hill tribes are to be brought up to the level of the rest of the population the strongest measures are now necessary.

6. Attitude of the General Public.—One thing which we noticed in the course of our visits to the different Provinces was a considerable awakening of the public conscience in the matter of the welfare of the tribal people. The inquiries instituted in some of the Provinces have doubtless contributed to this quickening. Non-official organisations are beginning to take interest in the welfare of the tribes and the work of the Servants of India Society stands out prominently among these. The recent rising of the Warlis in Bombay Presidency has drawn attention in a rather forcible way perhaps, to their problems. Whatever the reasons, it seems now clear that there is a general tendency to take up the question of development of the tribes people as a serious matter, but whether this by itself is sufficient to ensure the future well-being of the tribes is more than questionable. Most of the Provinces are far from being happily placed in the matter of funds, and the development of areas inhabited by tribes which are situated generally in hilly country is a matter which calls for a good deal of expenditure for which there are many competitors. The emergence of educated people among the tribes is as yet inadequate for the maintenance of interest in their problems.

7. Potentialities of the Tribes.—The views of people of different points of view regarding the future administration of the hill tracts and of the tribes people themselves was found to be remarkably uniform. To begin with, there was hardly anybody who did not believe that the tribals are capable of being brought to the level of the rest of the population by means of education and contact. Wherever facilities for education and contact have been available, the tribes people have showed that their intelligence can be developed and environmental difficulties overcome. It is true that as yet there is a great deal of apathy in certain areas. Mr. Symington's report in particular points out that the Bhils take little interest in the local boards or in education and their addiction to drink is likely to keep them in their present backward state. In the partially excluded areas of Orissa, we came across tribals who had not been anywhere beyond a few miles of their village or seen a motor car or a railway train. By and large however we found that there is a considerable demand for education and advancement among the tribal peoples and

have no doubt that within a short time they can be brought up to a satisfactory level, if development plans are vigorously pursued.

8. General Conclusions.—To sum up: Both exclusion and partial exclusion have not yielded much tangible result in taking the aboriginal areas towards removal of that condition or towards economic and educational betterment. Representation of partially excluded areas in the legislature and in local bodies has been weak and ineffective and is likely to continue to be so for some time to come. Education shows definite signs of being sought after more and more but the poor economic condition of the aboriginal and the difficulty of finding suitable teachers present problems which must be over-come before illiteracy can be properly tackled. The great need of the aboriginal is protection from expropriation from his agricultural land and virtual serfdom under the money-lender.

There are certain tracts like Sambalpur and Angul in the Orissa province which need no longer be treated differently from the regularly administered districts. On the other hand areas like the Madras and the Orissa Agency tracts still need a simplified type of administration which does not expose them to the complicated machinery of ordinary law courts. Differences in social customs and practices among the tribes also need to be kept in mind.

9. Representation in Legislatures.—We have pointed out at the very outset that the tribals who live in the non-excluded areas form part of our problem and cannot be left out of account. In considering representation in the Legislatures we would urge that the tribes should be treated as a whole as a minority and not separately. In this regard, we would refer to a certain difference of opinion which exists among the parties interested. In Bombay the view of the Ministers and others dealing with the problem was unreservedly in favour of providing representation for the tribes as a whole by reservation of seats in a joint electorate. In Madras also a similar view found favour. In the Central Provinces, however, different views were expressed not only in respect of the method of election but also about reservation, both by officials and by Ministers. Certain district officials suggested that there should be nomination out of a panel submitted by district officials. Mr. Grigson favoured a scheme of indirect elections by means of group panchayats. The general feeling among these officials was that election was not likely in the present circumstances to produce suitable representatives. Some point was given to this by the reply of Mr. Wadiwa, a Gond pleader, who gave evidence before us, that he could not stand for election on account of the expense involved. The Ministers on the contrary seemed to have no objection to elections but were strongly opposed to reservation of seats in proportion to their population. Mr. Grigson also did not appear to favour reservation though he was of the view that if reservation was made for the scheduled castes there was no justification for not protecting the aboriginal similarly: "But once we start with reservation there is the possibility of it becoming permanent." The Ministers considered that increased representation would be provided by their scheme of demarcating constituencies without the evil of creating a separatist mentality. "These tahsil areas will be delimited so that particular communities in particular areas will get an effective voice. Just as particular wards in a municipality return only a particular class or community of persons—some wards in Nagpur Municipality return only Muslim members—an Ahir ward or tahsil will return only an Ahir, a Gond tahsil will return only a Gond and so on. In this way we want to give all the sections of our people thorough and complete representation without whetting their communal

appetite". As regards the other tribals who are not found in compact areas, it is asserted that they are generally dispersed in the province and not easily distinguishable from the other people. In Orissa reservation of "a specific number of seats" in general constituencies is recommended but it is considered necessary that aboriginal members should be elected to these seats by a suitable system of indirect or group election. The remarks of the Orissa Government in connection with the system of partial exclusion are relevant: "The inadequacy of representation of the aboriginal people of these areas in the legislature has also contributed to their neglect. They are not vocal nor have they any press for propaganda. They have been represented in the Assembly by five members, four nominated by the Governor and one elected from Sambalpur. As a result of this insufficient representation, the problems of these areas do not receive the attention to which their size and importance entitle them". We have given serious thought to the question and come to the conclusion that the tribals should have reserved seats in a joint electorate based on adult franchise. We do not consider the scheme of the C. P. Government adequate as it provides no safeguards for the large numbers of tribals who live in the non-excluded areas and who without reservation would have no chance of being represented in the Legislature. The case of the tribals is not essentially different from that of the Scheduled Castes and they are in fact more backward in education and in their economic condition than the Scheduled Castes. Representation in proportion to their numbers in the legislatures, even if some of them are not vocal or able to argue their case will emphasize the importance and urgency of their problems. And it is to the interest of the country to see that these original inhabitants of the Indian soil are brought up to the level of the rest so that they can contribute in due measure to the progress of the country rather than be a drag on the rest. We do not consider that the method of indirect election or nomination should be resorted to. The aboriginals have to take part in direct election some time and the sooner their training for this starts the better

Having regard to the circumstances of the Madras island and the Punjab Excluded Areas, we recommend special representation as follows:—

Laccadive Group	1
Lahaul and Sipiti	1
Amindivi Group	1
Minicoy	1

It seems clear to us that these areas cannot be included in other constituencies, nor would they be suitably represented if so included.

10. Legislation.—(a) *Areas to be Scheduled.*—The provisions for partially excluded and excluded areas in the 1935 Constitution are designed to prevent the application of unsuitable legislation, to permit the making of special rules and regulations required for any different system of administration needed in the aboriginal areas, and for the provision of funds at the discretion of the Governor for the totally excluded areas. Although in most of the Provinces, there has been a good deal of assimilation of the tribal people to the people of the plains, yet the social system of the tribes is different from that of the plains people in a number of the partially excluded areas. In the excluded areas, of course as already pointed out, there are people like Tibetans, the Chakma, Mro and

Mogh of the Chittagong Hill Tracts, the islanders of the Laccadive Islands and so on. In the partially excluded areas, the tribes of Orissa and Chhota Nagpur and even the Gonds of the C.P. and the Bhils of Bombay who have assimilated the life of the plains to a greater extent than others have different social customs. The law of inheritance and the systems of marriage and divorce are different from those of other communities. It is possible of course for the legislatures to bear these features in mind and pass different laws just as different laws have been passed for Hindus and Muslims but there are other subjects as well in which the tribes will have to be treated on a different footing. In places like the Agency Tracts, for example, the population is as yet too primitive to be able to understand or make use of the complicated procedure and law of the civil, criminal and revenue courts. We have mentioned earlier the features peculiar to the Santal Parganas and the Jaunsar Bawar Pargana. Even in the more advanced tracts of the Central Provinces of Bombay, the tribal is at a serious disadvantage on account of his poverty and ignorance and the procrastination of courts and officials and is easily victimized. This is of course true of all poor and simple rural folk, but it is clear that in the case of the aboriginal it applies to a community found predominantly in certain areas and not to individuals. Thus a simplified system of dispensation of justice will be necessary in certain areas. There is again the question of land legislation. The land is the only thing left to the aboriginal who does not follow non-agricultural professions to any appreciable extent as yet. In the Chhota Nagpur Division different kinds of tenure have been recognized for the tribals and in any case, even where the tenure is simple and common to other areas, grant of the power of alienation to the tribals is certain to result in his gradual expropriation. We are thus led to the conclusion that it is necessary to provide that in certain areas laws of the provincial legislature which are likely to be based largely on the needs of the majority of the populations should not apply automatically, if not generally, at least in certain specified subjects. A general provision of this kind is of course a matter of convenience and would eliminate the need for the legislature to provide special clauses or saving clauses. It would also enable special consideration if the legislation is to be applied to the area. This of course involves notification of areas and we recommend provision for the purpose. We propose that the areas should be known as "Scheduled Areas" in future.

11. (b) Application to Scheduled Areas.—The next question which arises is whether any special mechanism is to be provided or whether the matter should be left to the legislature without any additional safeguard to apply legislation. The Government of Orissa have apparently thought it sufficient if the laws are specially extended by the Provincial Government and other Governments may hold similar views. The fact that non-tribals will be in a majority in all the legislatures and the fears which the tribals entertain that their interests and special customs and circumstances may be ignored must in this context be taken into account. Doubtless they would like to feel that they themselves have a voice in the decision and that a decision is not taken by persons unacquainted or imperfectly acquainted with their special circumstances and not genuinely interested in their welfare. The feeling which prevails in this matter has been expressed thus: "Speaking purely hypothetically, it should not be possible for the member representing Chittagong to be able to oblige his constituents by getting some radical changes made to the detriment of the hill tribes, which is of local advantage to them." (Lt.-Col Hyde, D.C. Chittagong Hill Tracts) and "Ministers may find that owing to political pressure from organised pressure groups, that it is impossible for them to give the protection which they desire to give" (Grigson aboriginal Tribes Enquiry Officer, C.P. & Berar.)

The present system under which the Governor in his discretion applies the legislation is not likely to appeal as this principle will be regarded as undemocratic, even though the governor in future may be an elected functionary. An alternative mechanism is therefore necessary. We have considered the question in all its aspects and come to the conclusion that in respect of certain subjects, laws passed by the Provincial Legislature should not be applied to the Scheduled Areas if the Tribes Advisory Council does not consider them suitable for those areas. We have also provided that in other subjects the Provincial Government should have the power to withhold or modify legislation on the advice of the Tribes Advisory Council. (Para 15).

12. (c) Special Subjects.—It has been stated above that in certain subjects legislation should not apply if considered unsuitable by the Tribes Advisory Council. We consider such a definition desirable to prevent any unnecessary complication of legislative procedure or delaying of legislation. In most of the areas ordinary legislation is applicable and the policy has been and should be to apply legislation normally unless there is any special reason to the contrary. As a matter of general concern restriction seems necessary only in certain matters and we recommend that all legislation relating to (1) social matters (2) occupation of land including tenancy laws, allotment of land and setting apart of land for village purposes, and (3) village management including the establishment of village panchayats should be dealt with in this manner.

13. Criminal and Civil Courts.—We have noticed that there are areas where the regular machinery for the disposal of criminal and civil cases is not in operation and an "Agency" system is in force. The civil procedure has in particular been substituted by a simplified procedure. We have no doubt that simplified procedure should be possible for the disposal of petty criminal and civil cases and recommended accordingly that except where the regular procedure is already in force, a simplified system should continue to be enforced. We are not however in a position to say whether the exact procedure followed at present needs modification or not.

14. Reservation in Federal Legislature.—We have recommended reservation of seats in the Provincial Legislature. We recommend reservation in the Federal Legislature also on the basis of population in each province. On the scale contemplated in the draft Union Constitution, this would be 5 for Bihar, 3 for C. P., and 2 each for Bombay and Orissa.

15. Provincial Tribes Advisory Council.—Most of the Provincial Governments have found it necessary to set up advisory bodies for the proper administration of the tribal areas. In our view, it is necessary that there should be a body which will keep the Provincial Government constantly in touch with the needs of the aboriginal tracts (Scheduled Areas) in particular and the tribal for such a council requires little explanation. Whatever legal machinery is set up, it is no fancy to suggest that its actual translation into practice may not be in accord with its spirit, and besides the legal machinery itself may be found defective in practice. For a number of years clearly, the development of the aborigines will require the most meticulous care. There are many ways in which the aborigines' interests may be neglected, and it is known that regardless of certain prohibitory rules they are subjected to harassment at the hands of subordinate government officials and contractors. In spite of the abolition of begar, for instance, there are still a good many cases of it in fairly serious form coming to notice from time to time. The working of provincial legislation or the machinery of administration in whole or in part needs constant scrutiny and regulation. The reclamation of the tribal is not likely to be an easy matter since it is seen from experience that even where provision for local bodies exists the aboriginal requires special encouragement to take active part in it. We have also pointed out

that the representation of the aboriginal in the legislature is likely to be weak for some time to come. To exercise special supervisory functions therefore and to bring to the attention of the Provincial Government from time to time the financial and other needs of the aboriginal areas, the working of development schemes, the suggestion of plans, or legislative or administrative machinery, it is necessary to provide by statute for the establishment of a Tribes Advisory Council in which the tribal element is strongly represented. There may be no objection to the advisory council being made use of for supervision of the interests of other backward classes as well. We are of the view that the establishment of an Advisory Council for the next ten years at least is necessary in the Provinces of Madras, Bombay, West Bengal, Bihar, C.P. & Berar and Orissa, and we recommend that statutory provision be made accordingly. We have referred earlier (Para 11) to the part that the Tribes Advisory Council will play in respect of Legislation.

16. Central Commission.—We have indicated above that unless the attention of the Government is concentrated with special emphasis on the problems of the aboriginals and the needs of the Scheduled Areas, there is little likelihood of any development. We do not intend any reflections on Provincial Governments if we remark that they may fail to take adequate interest. The provincial finances may also need to be strengthened by subventions from the Central fisc and we have in fact recommended that the Federation should come to the aid of the provinces to the extent necessary. We are of the view therefore that the Federal Government should take direct interest in the development of the tribes. We consider that it should be possible for the Federal Government to institute at any time a special Commission to enquire into the progress of plans of development and also into the conditions of the Scheduled Areas and tribals in general. In any case, such a commission should be instituted on the expiry of ten years from the commencement of the new Constitution. We have no doubt that the provinces would welcome such a commission and we recommend that provision for its appointment should be made in the Union Constitution.

17. Central Subventions.—The development of the Scheduled Areas is likely to involve heavy expenditure on account of the nature of the country and other practical difficulties. It is obvious that in the hilly tracts the construction and maintenance of roads will require a good deal of money. Most of these tracts are devoid of any attraction for officials who thus need to be specially compensated. The provision of schools, medical facilities and water supply which are dire needs will doubtless make a heavy demand on the budget. While we are clearly of the view that to the maximum possible extent the funds required for the welfare and development of these areas should be found in the provinces themselves, we feel that unless the Central Government provides the necessary assistance, some of the Provincial Governments at any rate may find it impossible to carry out schemes of improvement. We recommend therefore that for all schemes of development approved by it the Central Government should contribute, in whole or in part, funds for the implementation of the development schemes. The Central Government should also be in a position to require the Provincial Governments to draw up schemes for the Scheduled Areas. We have recommended statutory provision to this effect.

18. Provincial Funds.—The main anxiety of the Scheduled Areas will centre round the attitude of the legislature in the provision of funds. These areas as already pointed out will be weakly represented and, being deficit areas, may be dealt with on the principle of he who pays more gets more. In the absence of a keen demand it is even possible that there is a

diversion of revenues to the more vociferous areas. We have remarked earlier that one of the weaknesses of the system of partial exclusion is the lack of financial safeguards. There is very clearly a necessity for making the required provisions to remove this weakness. It has been suggested to us that funds for the development of the Scheduled Areas should be provided by the fixation of a statutory percentage of the provincial revenues. It may be easy to provide by statute that such and such a proportion of the Provincial revenues should be spent upon the Scheduled Areas, but there is first of all the difficulty of determining the ratio. The needs of the Scheduled Areas are great in comparison with the population and in some cases even with the extent of the tract. Secondly if a rigid statutory ratio is fixed, it may in practice be found that it is not possible to adhere to it. The framing of a budget has to take into account many factors and rigid statutory ratio is likely to cause difficulties to the Provincial Governments, apart from being perhaps ineffective in providing the real needs of the hill tracts. If a low ratio is fixed it is practically certain that the Provincial Governments will not exceed that. If a high ratio is fixed, the Provincial Government may be unable to meet it and in any case the working out of an acceptable ratio itself seems impracticable in the circumstances without a careful examination of the needs of all the different tracts. We feel consequently that no direct statutory safeguard of this nature is possible. The other possibility is that the Governor in his discretion should set apart funds and that these funds should be outside the vote of the legislature. We feel that such a provision is likely to be repugnant to the provincial legislature.

We recommend however that the revenues derived from and the expenses incurred on the Scheduled Areas from the provincial budget should be shown separately so as to prevent the needs of these areas being over-looked through incorporation in the general items. Such a separate statement will of course afford a better opportunity for scrutiny and criticism.

19. Governor's Responsibility.—In connection with financial safeguards the view was expressed that the formulation of a plan of improvement affords sufficient guarantee for the expenditure of funds. We are of the view that in the provisions corresponding to the Instrument of Instructions the Governor should be required to see that a suitable scheme of development is drawn up and implemented as far as possible (See para 17).

20. Tribal Minister.—Connected with the formulation of development schemes and the provision of adequate expenditure for the hill tracts is the need for the appointment of a separate Minister to give effect to the plans and to look after the interests of the aborigines. The tribal population in the C.P., Orissa and Bihar forms a considerable proportion of the total population and on this ground alone the tribals have a case for representation in the Provincial Government. In the C.P., the tribal population is nearly 18 per cent. In Orissa, almost a fifth of the population is tribal, and in Bihar there are over 5 millions of them constituting about 14 per cent. Partly in order to provide representation for the tribals and in any case to see that adequate attention is paid to their administration we are of the view that there should be a separate Minister for the tribal areas and tribes in C.P., Orissa and Bihar and that this should be provided by statute. The Minister should be a tribal himself unless a suitable person cannot be found. We may add that the Government of Orissa have recognised that there should be a separate portfolio for the welfare of the backward classes under the new constitution.

21. Services.—It has been pointed out that the tribals constitute an appreciable proportion of the population particularly in some Provinces. On

this account, the policy of recruitment of a due proportion of aboriginals having regard to reasonable efficiency, into the Government services is justified and necessary and must be followed. Apart from this, however, it is necessary that there should be an adequate number of tribals in the services so that the constant complaints of mishandling by non-tribal Officials, particularly, of such servants as forest guards, constables or exercise peons and clerks can be minimized. Moreover, it is only by adequate representation in the Government and local bodies' services that the tribal can gain the necessary confidence and status.

We do not consider that a separate service of tibal people is necessary or desirable for the Scheduled Areas, and we recommend that they should be recruited to a general cadre. This will enable them to come into contact with non-tribes people and we also consider that there is no objection to the posting of selected non-tribal officials to the Scheduled Areas. In fact, in the evidence before us, opinion has been practically uniform that there is no necessity for a special cadre of officials for the hill tracts and what is really required is selection of sympathetic officials for working in the hills. We would draw attention here to the importance of providing suitable accommodation and facilities for medical attention to officials serving in the scheduled areas. Malaria and other diseases constitute the scourge of these hill tracts and unless special attention is paid to the health of the staff it is unlikely that development schemes will make much headway. The provision of facilities for recreation and adequate compensatory allowances for officials posted to these areas should be kept in mind. Any tendency to treat these posts as penal posts or posts for the safe deposit of incompetents must be strongly deprecated.

22. Tribal Panchayats.—We have recommended that simplified rules should be continued where they are in force in the Scheduled Areas for the trial of civil and criminal cases. Wherever trial institutions are still fairly vigorous, we would recommend that they should be utilised to try petty civil disputes and criminal cases. The establishment of the more advanced type of village panchayat is recommended wherever possible.

23. Shifting Cultivation.—Shifting cultivation or podu is practised mostly in the Koraput and Ganjam agency tracts of Orissa and in the similar agency tracts of Madras. In the Central Provinces it is prohibited by law and is not practised to any appreciable extent except in the Baiga Chak where it is permitted and in the Zamindaris. We have nothing to add to the recommendations of the Orissa Partially Excluded Areas Inquiry Committee. This method of cultivation should be eliminated, as soon as possible.

24. Prohibition.—We invite the attention of Provincial Governments to the recommendations made by Mr. Symington (Bombay) and the Orissa Partially Excluded Areas Committee. Temperance propaganda should be taken up as part of the welfare work. A feeling has been growing among aboriginals, particularly in the tracts of Bombay and the Central Provinces that prohibition is to their advantage, and this feeling should be fostered among all the tribals.

25. Land.—The importance of protection for the land of the tribals has been emphasised earlier. All tenancy legislation which has been passed hitherto with a view to protecting the aboriginal has tended to prohibit the alienation of the tribals land to non-tribals. Alienation of any kind, even to other tribals, may have to be prohibited or severely restricted in different stages of advancement are concerned. We find however

that Provincial Governments are generally alive to this question and that protective laws exist. We assume that these will continue to apply and as we have made special provision to see that land laws are not altered to the disadvantage of the tribal in future, we do not consider additional restrictions necessary. As regards the allotment of new land for cultivation or residence however, we are of the view that the interests of the tribal need to be safeguarded in view of the increasing pressure on land everywhere. We have provided accordingly that the allotment of vacant land, belonging to the State in Scheduled Areas should not be made except in accordance with special regulations made by the Government on the advice of the Tribes Advisory Council.

26. Money-Lenders.—Connected with the protection of the land is the need for prevention of exploitation by money-lenders. We consider it necessary that in the Scheduled Areas money-lenders should not be permitted at all and that at any rate they should be allowed to operate under licence and stringent control only.

27. The Scheduled Areas.—It has been pointed out that areas like Sambalpur, Angul and Darjeeling need no longer be treated as partially excluded areas. The U. P. Government are of the view that the Khat Haripur Bias should be detached from the Hill Sub-division. They have also recommended the removal of the Dudhi Partially Excluded Areas. The population of the partially excluded areas in the United Provinces is small and the Jaunsar Bawar pargana is not inhabited by people who are in an ethnic sense tribals. We have not recommended a Tribes Advisory Council for U. P. and we do not consider it necessary to schedule either of these areas. Similarly we do not consider it necessary to schedule the Spiti area of the Punjab. In all these tracts, it will be open to the Provincial Government to apply the provisions of Part II of the law proposed by us. In Bombay, we consider that certain areas in the West Khandesh District and the partially excluded areas of the Broach and Panch Mahals District should henceforth be administered without any special provisions. The C. P. areas are retained as they are and in Chhota Nagpur we are provisionally of the view that only the three districts which have a majority of tribals should be scheduled. The schedule proposed is shown as Appendix D.

On the other hand, there may be other areas which the Provincial Governments may like to bring under special administration. This can be done by the Provincial Government in their discretion. For the protection of the land of tribes line the Lepcha in Darjeeling the Provincial Government could make the appropriate provision of the chapter relating to the Scheduled Areas applicable to the area concerned.

28. Draft Provisions.—We enclose a draft of provisions contemplated by us in roughly legal form (Appendix C.)

(Sd.) A. V. THAKKAR,

Chairman.

(Sd.) D. N. SAMANTA,

(Sd.) THAKUR PHUL BHANU SHAH,

(Sd.) RAJ KRUSHNA BOSE,

(Sd.) JAIPAL SINGH,

(Sd.) P. C. GHOSH.

APPENDIX A**PART I—EXCLUDED AREAS****MADRAS**

The Laccadive Islands (including Minicoy) and the Amindivi Islands.

BENGAL

The Chittagong Hill Tracts.

THE PUNJAB

Spiti and Lahoul in the Kangra District.

PART II—PARTIALLY EXCLUDED AREAS.**MADRAS**

The East Godavari Agency and so much of the Vizagapatam Agency as is not transferred to Orissa under the provisions of the Government of India (Constitution of Orissa) Order, 1936.

BOMBAY

In the West Khandesh District, the Shahada, Nandurbar and Taloda Taluks, the Navapur Petha and the Akrani Mahal, and the villages belonging to the following Mehwasai Chiefs, namely, (1) the Parvi of Kathi, (2) the Parvi of Nal, (3) the Parvi of Singpur, (4) the Walvi of Gaohali, (5) the Wassawa of Chikhli, and (6) the Parvi of Navalpur.

The Satpura Hills reserved forest areas of the East Khandesh District.

The Kalvan Taluk and Peint Peth of the Nasik District.

The Dhahanu and Shahapur Taluks and the Mokhada and Umbergaon Pethas of the Thana District.

The Dohad Taluk and the Jhalod Mahal of the Broach and Panch Mahals District.

BENGAL

The Darjeeling District.

The Dewanganj, Sribardi, Nalitabori, Haluaghat, Durgapur and Kalmakanda police stations of the Mymensingh District.

THE UNITED PROVINCES

The Jaunsar-Bawar Pargana of the Dehra Dun District.

The portion of the Mirzapur District south of the Kaimur Range.

BIHAR

The Chota Nagpur Division.

The Santal Parganas District.

THE CENTRAL PROVINCES AND BERAR

In the Chanda District, the Ahiri Zamindari in the Sironcha Tahsil, and the Dhanora, Dudmala, Gewardha, Jharapapra, Khutgaon, Kotgal, Muramgaon, Palasgarh, Rangi, Sirsundi, Sonsari, Chandala, Gilgaon, Pai-Muranda and Potegaon Zamindaris in the Garchiroli Tahsil.

The Harrai, Gorakghat, Gorpani, Batkagarh, Bardagarh, Partabgarh (Pagara), Almod and Sonpur jagirs of the Chhindwara District, and the portion of the Pachmarhi jagir in the Chhindwara District.

The Mandla District.

The Pendra, Kenda, Matin, Lapha, Uprora, Chhuri and Korba Zamin-
daris of the Bilaspur District.

The Aundhi, Koracha, Panabaras and Ambagarh Chauki Zamindaris
of the Drug District.

The Baihar Tahsil of the Balaghat District.

The Melghat Taluk of the Amraoti District.

The Bhainsdehi Tahsil of the Betul District.

ORISSA

The District of Angul.

The District of Sambalpur.

The areas transferred from the Central Provinces under the provisions
of the Government of India (Constitution of Orissa) Order, 1936.

The Ganjam Agency Tracts.

The areas transferred to Orissa under the provisions of the aforesaid
Order from the Vizagapatam Agency in the Presidency of Madras.



सत्यमेव जयते

APPENDIX B**I***Statement showing Total Population and Tribal Population of Provinces*

Name of Province	Total Population	Tribal Population	Percentage
Madras	49,341,810	562,029	1.1
Bombay	20,849,840	1,614,298	7.7
Bengal	60,306,525	1,889,389	3.1
United Provinces	55,020,617	289,422	.53
Punjab	28,418,819	..	..
Bihar	36,340,151	5,055,647	13.9
C. P. and Berar	16,813,584	2,937,364	17.5
Assam	10,204,733	2,484,996	24.4
N. W. F. P.	3,038,067	..	..
Orissa	8,728,544	1,721,006	19.7
Sind	4,535,008	36,819	.81
Ajmer-Merwara	583,693	91,472	15.6
Andaman and Nicobars	33,768	11,076	32.8
Baluchistan	501,631	3	..
Coorg	168,726	19,723	11.7
Delhi	917,939	..	..

Source : 1941 Census Table.

II

Excluded and Partially Excluded Areas Population (Provincial totals)

	Areas in Sq. Miles	Total Population	Aboriginal or Backward Class	Percentage
Madras	Excluded Areas— 9·62 Sq. Miles— 201½ acres. Partially Excluded Areas— 6,792·31	18,357 493,026	18,335 333,372*	99·9 67·6
Bombay	Excluded Areas— Nil. Partially Excluded Areas— 6,697†	Nil. 1,125,471	Nil. 663,528	Nil. 58·9
Bengal	Excluded Areas— 5,007 Partially Excluded Areas— 2,518	247,053 977,665	233,392 190,112	94·5 19·4
United Provinces	Excluded Areas— Nil. Partially Excluded Areas— 2,250	Nil. 202,000	Nil. 143,600	Nil. 71·1
Punjab	Excluded Areas— 4,695 Partially Excluded Areas— Nil.	11,700 Nil.	11,700 (Tibetans).	100
Bihar	Excluded Areas— Nil. Partially Excluded Areas— 32,592	Nil. 9,750,846	Nil. 4,451,109	Nil. 45·6
Central Provinces and Berar.	Excluded Areas— Nil. Partially Excluded Areas— 19,856	Nil. 1,467,681	Nil. 829,918	Nil. 36·6
Orissa	Excluded Areas— Nil. Partially Excluded Areas— 19,831	Nil. 2,939,416	Nil. 1,560,104	Nil. 53·09
GRAND TOTAL	100,248	17,233,205	8,435,190	48·95

*Includes 72,809 Backward Class.

†Does not include the area of "Satpura Hills Preserved Forest".

III

Statement showing Total Population and Tribal Population by Districts

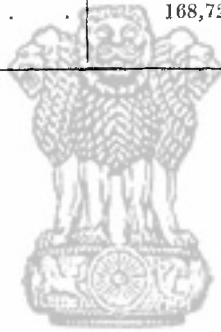
Province or District	Total Population	Tribal Population	Percentage
MADRAS PROVINCE			
British Territory	49,341,810	562,029	1.14
Vizagapatam	3,845,944	286,923	7.46
Agency	421,437	140,721	63.55
Plains	3,624,507	140,202	4.03
Godavari East	2,161,863	101,532	4.70
Agency	271,569	97,200	35.78
Plains	1,890,294	4,332	.23
Godavari West	1,380,088	1,999	.14
Kistna	1,444,294	345	.02
Guntur	2,277,283	2,246	.10
Nellore	1,617,026	15	..
Cuddapah	1,056,507	19	..
Kurnool	1,146,250	5,878	.51
Bellary	1,051,235	548	..
Anantapur	1,171,419	4	..
Madras	777,481	2	..
Chingleput	1,823,955	39	..
Chittoor	1,632,395	..	..
North Arcot	2,577,540	..	..
Salem	2,869,226	6	..
Coimbatore	2,809,648	12,440	.44
South Arcot	2,608,753	..	..
Tanjore	2,563,375	213	..
Trichinopoly	2,194,991	24	..
Madura	2,446,601	6	..
Ramnad	1,979,643	..	..
Tinnevelley	2,244,543	161	..
Nilgiris	209,769	62,951	30.02
Malabar	3,929,425	34,366	.87
South Kanara	1,523,516	52,312	3.43
BOMBAY PROVINCE			
Province of Bombay Proper	20,849,840	1,614,298	7.74
Bombay City	1,489,883	4,606	.31
Northern Division	5,276,593	874,103	16.56
Ahmedabad	1,372,171	8,730	.64
Ahmedabad City	591,267	5,744	.97
Broach & Panch Mahals	924,527	268,617	29.06
Kaira	914,957	5,161	.57
Surat	881,058	320,575	36.37
Thana	932,733	257,130	27.57
Bombay Suburban	251,147	13,890	5.53
Central Division	8,197,393	667,828	8.15
Ahmednagar	1,142,229	41,146	3.60
East Khandesh	1,327,722	61,054	4.60
West Khandesh	912,214	357,719	39.21
Nasik	1,113,901	167,280	15.02
Poona	1,359,408	36,835	2.71
Satara	1,327,249	11,014	.08
Sholapur	1,014,670	2,780	.21
Southern Division	5,885,971	67,761	1.15
Belgaum	1,225,428	1,674	.14
Bijapur	975,982	1,008	.10
Dharwar	1,210,016	1,414	.12
Kanara	441,157	197	.04
Kolaba	668,922	62,170	9.29
Ratnagiri	1,373,466	1,298	.09

Province or District	Total Population	Tribal Population	Percentage
BENGAL PROVINCE			
British Territory	60,306,525	1,889,389	3.13
Burdwan Division	10,287,369	706,729	6.87
Burdwan	1,890,732	151,355	8.0
Birbhum	1,048,317	74,084	7.07
Bankura	1,289,640	154,246	11.96
Midnapur	3,190,647	253,625	7.95
Hooghly	1,377,729	69,500	5.04
Howrah	21,490,304	3,919	.26
Presidency Division	1,817,087	99,235	.77
24 Parganas	3,536,386	51,085	1.44
Calcutta	2,108,891	1,688	.08
Nadia	1,759,846	12,671	.72
Murshidabad	1,640,530	26,138	1.59
Jessore	1,828,216	4,978	.27
Khulna	1,943,218	2,675	.14
Rajshahi Division	12,040,465	776,729	6.44
Rajshahi	1,571,750	67,298	4.28
Dinajpur	1,926,833	182,892	9.49
Jalpaiguri	1,089,513	279,296	25.63
Darjeeling	376,369	141,301	37.54
Rangpur	2,877,847	18,200	.63
Bogra	1,260,463	14,387	1.14
Pabna	1,705,072	6,906	.45
Malda	1,232,618	66,449	5.39
Dacca Division	16,683,714	65,398	.39
Dacca	4,222,143	4,029	.10
Mymensingh	6,023,758	59,722	.99
Faridpur	2,888,803	1,363	.05
Bakarganj	3,549,010	284	.01
Chittagong Division	8,477,890	241,298	2.85
Tippera	3,860,139	1,524	.04
Noakhali	2,217,402	34	..
Chittagong	2,153,296	6,348	.29
Chittagong Hill Tracts	247,053	233,392	94.47
UNITED PROVINCES			
British Territory	55,020,617	289,422	.53
AGRA PROVINCE	40,906,147	289,244	.71
Meerut Division	5,716,451	70	..
Dehra Dun	266,244	..	..
Saharanpur	1,179,643	..	..
Muzaffarnagar	1,056,759	..	..
Meerut	1,896,582	..	..
Bulandshahr	1,317,223	70	..
Agra Division	5,326,768	79	..
Aligarh	1,372,641	1	..
Muttra	806,992	..	..
Agra	1,289,774	..	..
Etah	984,760	78	.01
Rohilkhand Division	6,195,996	57	..
Bareilly	1,176,197	28	..
Bijnor	910,223	11	..
Budaun	1,162,322	..	..
Moradabad	1,473,151	17	..
Shahjahanpur	983,385	1	..
Pilibhit	490,718	..	..

Province or District	Total Population	Tribal Population	Percentage
<i>Allahabad Division</i>	6,014,813	19,139	·32
Farrukhabad	955,377	47	..
Etawah	883,264	143	·02
Cawnpore	1,556,247	1,083	·70
Fatehpur	806,944	241	·03
Allahabad	1,812,981	17,625	·97
<i>Jhansi Division</i>	2,553,492	26,439	1·04
Jhansi	773,002	12,494	1·06
Jalaun	482,384	6,361	1·31
Hamirpur	575,538	7,584	1·32
Banda	722,568	..	..
<i>Benares Division</i>	5,545,257	141,661	2·55
Benares	1,218,629	21,152	1·74
Mirzapur	899,929	43,383	4·82
Jaunpur	1,387,439	3,353	·24
Ghazipur	985,380	21,641	2·20
Ballia	1,053,880	52,132	4·85
<i>Gorakhpur Division</i>	7,972,108	101,746	1·28
Gorakhpur	3,963,574	99,076	2·50
Basti	2,185,641	83	..
Azamgarh	1,822,893	2,587	·14
<i>Kumaon Division</i>	1,581,262	53	..
Nainital	291,861	..	..
Almora	687,286	..	..
Garhwal	602,115	53	·01
ODISH PROVINCE	14,114,470	178	..
<i>Lucknow Division</i>	6,530,932	7	..
Lucknow	949,728	7	..
Unao	959,542	..	..
Rae Bareli	1,064,804	..	..
Sitapur	1,293,554	..	..
Hardoi	1,239,279	..	..
Kheri	1,024,025	..	..
<i>Fyzabad Division</i>	7,583,538	171	..
Fyzabad	1,319,425	157	·01
Gonda	1,719,644	..	..
Bahraich	1,240,569	..	..
Sultanpur	1,100,368	14	..
Partabgarh	1,041,024	..	..
Bara Banki	1,162,508	..	..
BIHAR PROVINCE			
British Territory	36,340,151	5,055,647	13·91
<i>Patna Division</i>	7,265,950	300,004	4·12
Patna	2,162,008	12,722	·59
Gaya	2,775,361	258,032	9·33
Shahabad	2,328,581	29,250	1·26
<i>Tirhut Division</i>	11,959,827	31,378	·35
Saran	2,860,537	18,314	·64
Champaran	2,397,569	20,086	·83
Muzaffarpur	3,244,651	1,996	·05
Darbhanga	3,457,070	982	·03
<i>Bhagalpur Division</i>	9,598,025	1,393,041	14·45
Monghyr	2,564,544	53,421	2·08
Bhagalpur	2,408,879	104,879	4·35
Purnea	2,390,105	104,856	4·38
Santal Parganas	2,234,497	1,129,885	50·56
<i>Chota Nagpur Division</i>	7,516,349	3,321,224	44·19
Hazaribagh	1,751,339	478,253	27·31
Ranchi	1,675,413	1,173,142	70·02
Palamau	912,734	323,106	35·40
Manbhum	2,032,146	678,126	33·37
Singbhum	1,144,717	668,597	58·41

Province or District	Total Population	Tribal Population	Percentage
CENTRAL PROVINCES AND BERAR			
British Territory	16,113,584	2,937,364	17.47
CENTRAL PROVINCES	13,208,718	2,663,959	20.16
<i>Jubbulpore Division</i>	3,691,112	789,355	21.39
Saugor	939,068	82,107	8.74
Jubbulpore	910,603	166,958	18.33
Mandla	504,580	304,099	60.27
Hoshangabad	823,585	123,621	15.01
Nimar	513,276	112,570	21.93
<i>Nagpur Division</i>	3,924,985	854,939	21.78
Betul	438,342	161,229	38.38
Chhindwara	1,034,040	395,781	38.28
Wardha	519,330	51,848	9.98
Nagpur	1,059,989	66,471	6.27
Chanda	873,284	172,610	19.77
<i>Chattisgarh Division</i>	5,592,621	1,019,665	18.23
Bhandara	963,225	115,173	11.96
Balaghat	634,350	138,693	21.86
Raipur	1,516,686	273,260	17.01
Bilaspur	1,549,509	287,680	18.56
Drug	928,851	104,859	20.91
BERAR PROVINCE	3,64,866	273,405	7.86
Amraoti	988,524	63,210	6.39
Akola	907,742	30,456	3.36
Buldana	820,862	19,849	2.42
Yotmal	887,738	159,890	18.01
ASSAM PROVINCE			
British Territory	10,204,733	2,484,996	24.35
<i>Surma Valley and Hill Division</i>	4,218,875	683,546	16.20
Cachar	641,181	178,264	27.80
Sylhet	3,116,602	69,907	2.24
Khasi & Jaintia Hills (British)	118,665	103,567	87.28
Naga Hills	189,641	184,766	97.43
Jaintia Hills	152,786	147,042	96.24
<i>Assam Valley Division</i>	5,919,228	1,757,664	29.74
Goalpara	1,014,285	237,993	23.46
Kamrup	1,264,200	197,926	15.66
Darrang	736,791	260,748	35.39
Newang	710,800	166,525	23.43
Sibsagar	1,074,741	360,768	33.57
Lakhimpur	894,842	335,230	37.46
Garo Hills	223,569	198,474	88.78
Sadiya Frontier Tracts	60,118	39,974	66.49
Balipara Frontier Tracts	6,512	3,812	58.54
ORISSA PROVINCE			
British Territory	8,728,544	1,721,066	19.72
Cuttack	2,431,427	55,280	2.27
Balasore	1,029,430	29,757	2.89
Puri	1,191,939	29,555	2.68
Sambalpur	1,182,622	2,32,095	19.71
Ganjam	1,855,264	433,687	23.38
Plains	1,392,189	59,658	4.29
Agency	463,076	374,029	80.77
Koraput	1,127,862	940,632	83.40

Province or District	Total Population	Tribal Population	Percentage
SIND PROVINCE			
British Territory	4,535,908	36,819	·81
Dadu	389,380	154	·31
Hyderabad	758,748	769	·10
Karachi	713,900	884	·12
Larkana	511,208	..	..
Nawabshah	584,178	1,326	·23
Sukkur	692,556	51	·01
Thar Parkar	581,004	33,635	5·79
Upper Sind Frontier	304,034	..	..
 AJMER-MERWARA	 583,693	 91,472	 15·67
 ANDAMANS & NICOBARS			
Andamans	33,768	11,076	32·80
Nicobars	21,316	..	..
Coorg	12,452	11,076	88·95
	168,726	19,723	11·69



सत्यमेव जयते

*Schedule 13 to Government of India (Provincial Legislative Assemblies),
Order, 1936.*

Backward Tribes.

PART I

Madras

1. Bagata.
2. Bottadas—Bodo Bhottada, Muria Bhottada and Sano Bhottada.
3. Bhumias—Bhuri Bhumia and Bodo Bhumia.
4. Bissoy—Barangi Jodia, Bennangi Daduva, Frangi, Hollar, Jhoria, Kollai, Konde, Paranga, Penga-Jodia, Sodo Jodia and Takora.
5. Dhakkada.
6. Domb—Andhiya Dombs, Audiniya Dombs, Chonel Dombs, Christian Dombs, Mirgani Dombs, Oriya Dombs, Ponaka Dombs, Telaga and Ummia.
7. Gadabas—Boda Gadaba, Cerlam Gadaba, Franji Gadaba, Jodia Gadaba, Olaro Gadaba, Pangi Gadaba and Paranga Gadaba.
8. Ghasis—Boda Ghasis and San Ghasis.
9. Gondi—Modya Gond and Rajo Gond.
10. Goundus—Bato, Bhirithya, Dudhokouria, Hato, Jatako and Joria.
11. Kosalya Goudus—Bosothoriya Goudus, Chitti Goudus, Dangayath Goudus, Doddu Kamariya, Dudu Kamaro, Ladiya, Goudus and Pullosoriay Goudus.
12. Magatha Goudus—Bernia Goudu, Bodo Magatha, Dongayath Goudu, Ladya Goudu, Ponna Magatha and Sana Magatha.
13. Serithi Goudus.
14. Holva.
15. Jadapus.
16. Jatapus.
17. Kammaras.
18. Khattis—Khatti, Kommaro and Lohara.
19. Kodu.
20. Kommar.
21. Konda Dhoras.
22. Konda Kapus.
23. Kondareddis.
24. Kondhs—Desaya Kondhs, Dongria Kondhs, Kuttiya Kondhs, Tikiria Kondhs and Yenity Kondhs.
25. Kotia—Bartikar, Benthoriya, Dhulia or Dulia, Holva Paiko, Putiay, Sanrona and Sidho Paiko.
26. Koya or Gound with its sub-castes, Raja or Rasha Koyas, Lingadhari Koyas, Koyas (ordinary) and Kottu Koyas.
27. Madigas.
28. Malas or Agency Malas or Valmikies.

29. Malis—Worchia Malis, Paiko Malis and Pedda Malis.
30. Maune.
31. Manna Dhora.
32. Mukha, Dhora-Nooka Dhora.
33. Muli or Muliya.
34. Muria.
35. Ojulus or Metta Komsalies.
36. Omanaito.
37. Paigarapu.
38. Palasi.
39. Palli.
40. Pentias.
41. Porjas—Bodo, Bonda, Daruva, Didua, Jodia, Mundili, Pengu Pydi and Saliya.
42. Reddi or Dhoras.
43. Relli or Sachandi.
44. Ronas.
45. Savaras—Kapu Savaras, Khutto Savaras and Maliya Savaras.

PART II

Bombay

- | | | |
|--------------------|--------------------------|------------------|
| 1. Barda. | 9. Gond. | 16. Patelia. |
| 2. Bavacha. | 10. Kathodi, or Katkari. | 17. Pomla. |
| 3. Bhil. | 11. Konkana. | 18. Powara. |
| 4. Chodhra. | 12. Koli Mahadeb. | 19. Rathawa. |
| 5. Dhanuka. | 13. Mavehi. | 20. Tadvli Bhil. |
| 6. Dhodia. | 14. Naikda or Nayak. | 21. Thakur. |
| 7. Dubla. | 15. Pardhi, including | 22. Valyai. |
| 8. Gamit or Ganta. | Advichincher or | 23. Varli. |
| | Phanso Pardhi. | 24. Vasava. |

PART III

Bihar

A person shall be deemed to be a member of a backward tribe if and only if—

(a) he is resident in the Province and belongs to any of the following tribes:—

- | | | |
|------------------|---------------|---------------------|
| 1. Asur. | 12. Gond. | 23. Kora. |
| 2. Banjara. | 13. Gorait. | 24. Korwa. |
| 3. Bathudi. | 14. Ho. | 25. Mahli. |
| 4. Bentkar. | 15. Jaung. | 26. Mal Paharia. |
| 5. Binghia. | 16. Karmali. | 27. Munda. |
| 6. Birhor. | 17. Kharria. | 28. Oraon. |
| 7. Birjia. | 18. Kharwr. | 29. Parhiya. |
| 8. Chero. | 19. Khetauri. | 30. Santal. |
| 9. Chik Barsaik. | 20. Khond. | 31. Sauria Paharia. |
| 10. Gadaba. | 21. Kisan. | 32. Savar. |
| 11. Ghaa. | 22. Koli. | 33. Tharu. |

(b) he is resident in any of the following districts or police stations, that is to say the Districts of Ranchi, Singhbhum, Hazaribagh and the Santal Parganas and the Police stations of Arsha, Balarampur, Jhalda, Jaipur, Baghmundi, Chandil, Ichagarh, Barahabhum, Patamada, Banduan and Manbazar in the district of Manbhum and belongs to one of the following tribes:—

- | | | |
|------------|------------|------------|
| 1. Bauri. | 4. Bhumij. | 7. Rajwar. |
| 2. Bhogta. | 5. Ghasi. | 8. Turi. |
| 3. Bhuiya. | 6. Pan. | |

(c) he is resident in the Dhanbad Sub-Division or any of the following police stations in the Manbhum district that is to say, Purulia, Hura, Pancha Ragunathpur Santuri, Nituria, Para, Chas, Chandan-Kiari and Kashipur, and belongs to the Bhumij tribe.

PART IV

Central Provinces

- | | | |
|--------------------|---------------|-------------------------|
| 1. Gond. | 13. Baiga. | 25. Kol. |
| 2. Kavar. | 14. Kolam. | 26. Nagasia. |
| 3. Maria. | 15. Bhil. | 27. Sawara. |
| 4. Muria. | 16. Bhuihar. | 28. Korwa. |
| 5. Halba. | 17. Dhanwar. | 29. Majhwar. |
| 6. Pardhan. | 18. Bhama. | 30. Khairi. |
| 7. Oran. | 19. Parja. | 31. Saunta. |
| 8. Binjhar. | 20. Kamar. | 32. Kondh. |
| 9. Andh. | 21. Bhunjia. | 33. Nihal. |
| 10. Bharia Bhumia. | 22. Nagarchi. | 34. Birhaul (or Biror). |
| 11. Koti. | 23. Ojha. | 35. Rautia. |
| 12. Bhatra. | 24. Korku. | 36. Pando. |

PART V

Orissa

A person shall be deemed to be a member of backward tribe if and only if—

(a) he is resident in the Province and belongs to any of the following tribes:—

- | | | |
|------------------|--------------------|--------------|
| 1. Bagata. | 8. Konda-Dora. | 15. Munda. |
| 2. Banjari. | 9. Koya. | 16. Banjara. |
| 3. Chenchu. | 10. Paroja. | 17. Bingjia. |
| 4. Gadaba. | 11. Saora (Savar). | 18. Kisan. |
| 5. Gond. | 12. Oraon. | 19. Koli. |
| 6. Jatapu. | 13. Santal. | 20. Kora. |
| 7. Khond (Kond). | 14. Kharia. | |

(b) he is resident in any of the following areas, that is to say, the Koraput and Khondmals Districts and the Ganjam Agency and belongs to either of the following tribes:—

1. Dom or Dombo.
2. Pan or Pano.

(c) he is resident in the Sambalpur district and belongs to any of the following tribes:—

- | | |
|------------|-----------------|
| 1. Bauri. | 4. Ghasi. |
| 2. Bhuiya. | 5. Turi. |
| 3. Bhumij. | 6. Pan or Pano. |

APPENDIX C

STATUTORY RECOMMENDATIONS

PART I

A. The Provincial Government may at any time by notification apply the provisions of Part II of this Chapter or of any of its sections to such areas as may be specified in the notification, being areas inhabited by any of the tribes named in Schedule A (and hereinafter referred to as "the tribes").

B. (1) The number of representatives of the tribes in the Provincial Legislature shall not be less in proportion to the total number of representatives than the population of the tribes in the province bears to its total population.

(2) In the Federal Legislature (House of the People) there shall be such number of representatives of the tribes of each Province as may be in accordance with the total population of the tribes in that Province on the scale prescribed in Section.

C. The election of the representatives of the tribes to the Provincial Legislature shall be by universal adult franchise.

PART II

D. As from the commencement of this Constitution the provisions of this Part shall apply to the areas specified in Schedule B to this Chapter (and hereinafter referred to as "the Scheduled Areas").

E. (1) The Provincial Government may, if so advised by the Tribes Advisory Council, by notification direct that any law passed by the Legislature shall not apply to a Scheduled Area or shall apply with such modifications as it may prescribe:

Provided that the Provincial Government shall, if so advised by the Tribes Advisory Council, direct that any law passed by the Provincial Legislature in respect of the following subjects, that is to say, (i) all social matters including inheritance of property; (ii) occupation of land (not being forest reserved under the provisions of the Indian Forest Act or other law applicable) including tenancy laws, allotment of land, reservation of land for any purpose; (iii) village management, including the establishment of village panchayats, shall not apply to a Scheduled Area or shall apply with such modifications as it may prescribe with the concurrence of the said Council.

(2) The Provincial Government may, in consultation with the Tribes Advisory Council, make special regulations for a Scheduled Area on any matter not provided for by a law in force in the Area.

F. Vacant land in a Scheduled Area which is the property of the State shall not be allotted to a non-tribal except in accordance with rules made by the Provincial Government in consultation with the Tribes Advisory Council.

G. (1) The Provincial Government may, and if so advised by the Tribes Advisory Council shall, direct that no person shall carry on business in a Scheduled Area as a moneylender except under and in accordance with the conditions of a licence issued by it or by an officer authorised by it in this behalf.

(2) Any contravention of an order issued by the Provincial Government under Sub-section (1) of this Section shall be an offence.

H. The revenue and expenditure pertaining to a Scheduled Area which is credited to or met from the funds of the Provincial Government shall be shown separately in the annual financial statement of the Provincial Government.

I. There shall be paid out of the revenues of the Federation such capital and recurring sums as may be necessary to enable the Provincial Government to meet the cost of such schemes of development as may be undertaken with the approval of the Federal Government for the purpose of raising the level of administration of the Scheduled Areas and all round development of the tribes to that of the rest of the province.

J. (1) There shall be established as soon as may be after the commencement of this Constitution in the Provinces of Madras, Bombay, West Bengal, Bihar, C. P. and Berar and Orissa, a Tribes Advisory Council to perform such functions as may be prescribed in this Constitution and to advise the Provincial Government from time to time on all matters pertaining to the administration and welfare of the tribes and of the Scheduled Areas.

(2) The Tribes Advisory Council shall consist of not less than ten and not more than twenty five members of whom three-fourths shall be elected representatives of the tribes in the Provincial Legislature (Lower House).

(3) The Provincial Government may make rules prescribing or regulating as the case may be:—

(a) the number of members of the Council, the mode of appointment of the members and of the Chairman or other office-bearers;

(b) the conduct of meetings and procedure in general;

(c) relations with officials and local bodies;

(d) all other incidental matters.

K. (1) The Federal Government may, at any time, and shall after the expiry of ten years from the commencement of this Constitution, institute a Commission to report on the administration of the tribes and the Scheduled Areas in general.

(2) The Federal Government may at any time require the Provincial Government to draw up and execute such schemes as it considers essential or the welfare of the tribes.

L. In the Provinces of Bihar, the Central Provinces and Berar and Orissa there shall be a separate Minister for Tribal Welfare.

Provided that the Minister may hold charge simultaneously of welfare work pertaining to Scheduled Castes or other backward classes or any other work.

M. Notwithstanding anything in the Criminal Procedure Code 1898, or the Civil Procedure Code (Act V of 1908), the Provincial Government may make special regulations for a Scheduled Area for the trial of offences other than those punishable with imprisonment for five years or more or with death or transportation for life and of disputes other than those arising out of special laws respectively and may empower headmen or panchayats to try such cases.

APPENDIX D*Schedule A***PART I****MADRAS**

1. Bagata.
2. Bottadas—Bodo Bhottada, Muria Bhottada and Sano Bhottada.
3. Bhumias—Bhuri Bhumia and Bodo Bhumia.
4. Bissoy—Bharangi Jodia, Bennangi Daduva, Frangi, Hollar, Jhoria, Kollai, Konde, Paranga, Penga Jodia, Sodo Jodia and Takora.
5. Dhakkada.
6. Domb—Andhiya Dombs, Audiniya Dombs, Chonel Dombs, Christian Dombs, Mirgani Dombs, Oriya Dombs, Ponaka Dombs, Telaga and Ummia.
7. Gadabas—Boda Gadaba, Cerlam Gadaba, Fanji Gadaba, Jodia Gadaba, Olaro Gadaba, Pangi Gadaba and Paranga Gadaba.
8. Ghasis—Boda Ghasis and San Ghasis.
9. Gondi—Modya Gond and Rajo Gond.
10. Goundus—Bato, Bhirithya, Dudhokouria, Hato, Jatako and Joria.
11. Kosalya Goudus—Bosothoriya Goudus, Chitti Goudus, Dangayath Goudus, Doddu Kamariya, Dudu Kamaro, Ladiya, Goudus and Pullosoriay Goudus.
12. Magatha Goudus—Bernia Goudu, Boodo Magatha, Dongayath Goudu, Ladya Goudu, Ponna Magatha and Sana Magatha.
13. Serithi Goudus.
14. Holva.
15. Jadapus.
16. Jataus.
17. Kammaras.
18. Khattis—Khatti, Kommaro and Lohara.
19. Kodu.
20. Kommar.
21. Konda Dhoras.
22. Konda Kapus.
23. Kondareddis.
24. Kondhs—Desaya Kondhs, Dongria Kondhs, Kuttiya Kondhs Tikiria, Kondhs and Yenity Kondhs.
25. Kotia—Bartikar, Benthoriya, Dhulia or Dulia, Holva Paika, Putiay, Sanrona and Sidho Paiko.
26. Koya or Gound with its sub-sects, Raja of Rasha Koyas, Lingadhari Koyas, Koyas (ordinary) and Kottu Koyas.
27. Madigas.
28. Malas or Agency Malas or Velmikies.
29. Malis—Worchia Malis, Paiko Malis and Pedda Malis.
30. Maune.

31. Manna Dhora.
32. Mukha Dhora—Nooka Dhora.
33. Muli or Muliya.
34. Muria.
35. Ojulus or Metta Komsalies.
36. Omanaito.
37. Paigarapu.
38. Palasi.
39. Pali.
40. Pentias.
41. Porjas—Bodo, Bonda, Daruva, Didua, Jodia, Mundili, Pengu Pydi and Saliya.
42. Reddi or Dhoras.
43. Relli or Sachandi.
44. Ronas.
45. Savaras—Kapu Savaras, Khutto Savaras and Maliya Savaras.
46. The inhabitants of the Laccadive, Minicoy and Amindivi Islands.

PART II

BOMBAY

- | | | |
|--------------------|--|------------------|
| 1. Barda. | 9. Gond. | 16. Patelia. |
| 2. Bavacha. | 10. Kathodi or Katkari. | 17. Pomla. |
| 3. Bhil. | 11. Konkna. | 18. Powara. |
| 4. Chodhra. | 12. Koli Mahadeb. | 19. Rathawa. |
| 5. Dhanka. | 13. Mavchi. | 20. Tadvi Bhili. |
| 6. Dhodia. | 14. Naikda or Nayak. | 21. Thakur. |
| 7. Dubla. | 15. Pardhi including Advichin-chor or Phanso Pardhi. | 22. Valvai. |
| 8. Gamit or Gamta. | | 23. Varli. |
| | | 24. Vasava. |

PART III

BIHAR

(a) A resident of the province belonging to any of the following tribes:-

- | | | |
|----------------|---------------|---------------------|
| 1. Asur. | 12. Gond. | 23. Kora. |
| 2. Bajra. | 13. Gorait. | 24. Korwa. |
| 3. Bathudi. | 14. Ho. | 25. Mahli. |
| 4. Bentkar. | 15. Juanz. | 26. Mal Paharia. |
| 5. Binjhia. | 16. Karmali. | 27. Munda. |
| 6. Birhor. | 17. Kharia. | 28. Oraon. |
| 7. Birjia. | 18. Kharwar. | 29. Parhiya. |
| 8. Chero. | 19. Khetauri. | 30. Santal. |
| 9. Chik Baraik | 20. Khond. | 31. Sauria Paharia. |
| 10. Gadaba. | 21. Kisan. | 32. Savar. |
| 11. Ghatwar. | 22. Koli. | 33. Tharu. |

(b) a resident in any of the following districts or police stations, that is to say, the districts of Ranchi, Singhbhum, Hazaribagh and the Santal Parganas, and the police stations of Arsha, Balarampur, Jhalda, Jaipur, Baghmundi, Chandil, Ichagarh, Barahabhum, Patamda Banduan and Manbazar in the district of Manbhum, belonging to any of the following tribes:—

- | | | |
|------------|------------|------------|
| 1. Bauri. | 4. Bhumij. | 7. Rajwar. |
| 2. Bhagta. | 5. Ghasi. | 8. Turi. |
| 3. Bhuiya. | 6. Pan. | |

(c) a resident in the Dhanbad Sub-Division or any of the following police stations in the Manbhum District, that is to say, Purulia, Hura, Pancha, Raghunathpur, Santuri, Nituria, Para, Chas, Chandan-Kiari and Khasipur belonging to the Bhumij tribe.

PART IV

CENTRAL PROVINCES

- | | | |
|--------------------|---------------|-------------------------|
| 1. Gond. | 13. Baiga. | 25. Kol. |
| 2. Kwar. | 14. Kolan. | 26. Nagasia. |
| 3. Maria. | 15. Bhil. | 27. Sawara. |
| 4. Muria. | 16. Bhuinhar. | 28. Korwa. |
| 5. Halba. | 17. Dhanwar. | 29. Majhwar. |
| 6. Pardhan. | 18. Bhaina. | 30. Kharia. |
| 7. Oraon. | 19. Parja. | 31. Saunta. |
| 8. Bimjhar. | 20. Kamar. | 32. Kondh. |
| 9. Andh. | 21. Bhunjia. | 33. Nihal. |
| 10. Bharia-Bhumia. | 22. Nagarchi. | 34. Birhaul (or Birhor) |
| 11. Koti. | 23. Ojha. | 35. Rautia. |
| 12. Bhatta. | 24. Korku. | 36. Pando. |

PART V

ORISSA

(a) A resident of the province belonging to any of the following tribes:—

- | | | |
|------------------|--------------------|--------------|
| 1. Bhagta. | 8. Konda-Dora. | 15. Munda. |
| 2. Banjari. | 9. Koya. | 16. Banjara. |
| 3. Chenchu. | 10. Paroja. | 17. Binjhia. |
| 4. Gadaba. | 11. Saora (Savar). | 18. Kisan. |
| 5. Gond. | 12. Oraon. | 19. Koli. |
| 6. Jatapu. | 13. Santal. | 20. Kora. |
| 7. Khand (Kond). | 14. Kharia. | |

(b) a resident of any of the following areas, that is to say, the Koraput and Khondmals Districts and the Ganjam Agency belonging to either of the following tribes:—

1. Dom or Domb.
2. Pan or Pano.

(c) a resident of the Sambalpur District belonging to any of the following tribes:—

- | | |
|------------|-----------------|
| 1. Bauri. | 4. Ghasi. |
| 2. Bhuiya. | 5. Turi. |
| 3. Bhumij. | 6. Pan or Pano. |

PART VI

BENGAL

- | | |
|------------|--|
| 1. Botia. | 7. Mro. |
| 2. Chakma. | 8. Oraon. |
| 3. Kuki. | 9. Santal. |
| 4. Lepcha. | 10. Tippera. |
| 5. Munda. | 11. Any other tribe notified by the Provincial Govt. |
| 6. Magh. | |

PART VII

UNITED PROVINCES

- | | |
|-------------|---|
| 1. Bhuinya. | 6. Kol. |
| 2. Baiswar. | 7. Ojha. |
| 3. Baiga. | 8. Any other tribe notified by the Provincial Govt. |
| 4. Gond. | |
| 5. Kharwar. | |

Schedule B

MADRAS

The Laccadive Islands (including Minicoy) and the Amindivi Islands.

The East Godavari Agency and so much of the Vizagapatam Agency as is not transferred to Orissa under the provisions of the Government of India (Constitution of Orissa) Order, 1936.

BENGAL

The Chittagong Hill Tracts.

BOMBAY

In the West Khandesh District:—The Navapur Petha, the Akrani Mahal and the villages belonging to the following Mehwassi Chiefs: (1) the Parvi of Kathi, (2) the Parvi of Nal, (3) the Parvi of Singpur, (4) the Walvi of Gaohali, (5) the Wassawa of Chikhli and (6) the Parvi of Navalpur.

In the East Khandesh District:—The Satpura Hills Reserved Forest Areas.

In the Nasik District:—The Kalvan Taluk and Peint Peth.

In the Thana District:—The Dahanu and Shahpur Talukas and Mokhala and Umbergaon Pethas.

BIHAR

The Ranchi and Singhbhum districts and the Latehar Sub-division of the Palamau district of the Chota Nagpur Division.

The Santal Parganas District, excluding the Godda and Deogarh sub-divisions.

THE CENTRAL PROVINCES AND BERAR

In the Chanda District, the Ahiri Zamindari in the Sironcha Tahsil and the Dhanora, Dudmala, Gewardha, Jharapapra, Khutgaon, Kotgal, Muramgaon, Palasgarh, Rangi, Sirsundi, Sonsari, Chandala, Gilgaon, Pai-Muranda and Potegaon Zamindaris in the Garchiroli Tahsil.

The Harrai, Gorakghat, Gorpani, Batkagarh, Bardagarh, Partabgarh (Pagara), Almod and Sonpur Jagirs of the Chhindwara District, and the portion of the Pachmarhi jagir in the Chhindwara District.

The Mandla District.

The Pendra, Kenda, Matin, Lapha, Upora, Chhuri and Korba Zamin-daris of the Bilaspur District.

The Aundhi, Koracha, Panabaras and Ambagarh Chauki Zamindaris of the Drug District.

The Baihar Tahsil of the Balaghat District.

The Melghat Taluk of the Amraoti District.

The Bhainsdehi Tahsil of the Betul District.

ORISSA

The Ganjam Agency Tracts including Khondmals.

The Koraput District.



सत्यमेव जयते

MINUTE OF DISSENT

SCHEDULED AREAS

I regret I must submit a minute of dissent in regard to the "Scheduled areas" for the Chhota Nagpur Plateau. I cannot agree to the elimination of the Districts of Manbhum, Hazaribagh and Palamau which, even according to the unreliable 1941 Census, contain 678,126, 478,253 and 323,106 Adibasis respectively, that is, a total of 1,479,485 Adibasis for the three Districts. I cannot see how I can agree to the demolition of the economic, geographical and ethnic unity and entity of the Chhota Nagpur Division. It is not right that we should give an *ex parte* verdict and change the *status quo* of these three Districts.

The 19th, August, 1947.

JAIPAL SINGH.



सत्यमेव जयते

INTERIM REPORT OF THE EXCLUDED AND PARTIALLY EXCLUDED AREAS (OTHER THAN ASSAM) SUB-COMMITTEE

Summary of Recommendations

1. Tribes who live in the non-excluded areas are part of the problem and the tribes as a whole should be treated as a minority. Tribals should have reserved seats in a joint electorate based on adult franchise in proportion to their population. One representative each is recommended for the Laccadiv, Amindivi and Minicoy islands respectively in the Madras Legislature and one for the Lahaul and Spiti Waziris in the East Punjab Legislature. [Para. 9 and Sections A and B (1) of Appendix C].

2. It will be necessary to provide for the exclusion of unsuitable legislation in such matters as land, village management and social customs in certain areas inhabited predominantly or to an appreciable extent by tribals. These areas will be known as Scheduled Areas. (Para. 10).

3. Legislation in such matters as land and social customs should not be applied to Scheduled Areas if the Tribes Advisory Council advises to the contrary. (Paras. 11 and 12 and Section E of Appendix C).

4. Simplified procedure should be continued for the disposal of petty criminal and civil cases. (Para. 13 and Section M).

5. Seats should be reserved in the Federal Legislature on the basis of the tribal population of the province. A Tribal Advisory Council should be set up with a minimum of ten and a maximum of 25 members in Madras, Bombay, Bengal, Bihar, C. P. and Orissa. (Para. 15 and Section J of Appendix C).

6. There should be provision for the Federal Government to institute a special commission to enquire into the progress of plans of development and also into the conditions of the Scheduled Areas and tribals in general. [Para. 16 and Section K (1) of Appendix C].

7. It will be necessary for the Central Government to come to the assistance of Provincial Governments for the execution of schemes of development by providing the necessary funds. The Central Government should also be in a position to require the Provincial Governments to draw up schemes for the Scheduled Areas. [Para. 17 and Sections I and K (2) of Appendix C].

8. The revenues derived from and the expenses incurred on the Scheduled Areas from the provincial budget should be shown separately in the annual financial statement of the province. (Para. 18 and Section H of Appendix C).

9. It should be the Governor's responsibility to see that schemes of development are drawn up and implemented. (Para. 19).

10. There should be a separate Minister for Tribal Welfare in C. P., Orissa and Bihar, and provision for this should be contained in the statute. (Para. 20 and Section L of Appendix C).

11. There should be a due proportion of aboriginals recruited into the various Government Services. A separate service is not recommended but non-tribal officials posted to the Scheduled Areas should be selected with care. (Para. 21).

12. Tribal panchayats should be encouraged wherever possible. (Para. 22).

13. Shifting cultivation should be discouraged. (Para. 23).

14. Temperance propaganda should be carried on as part of tribal welfare work. (Para. 24).

15. The alienation of land belonging to tribals to non-tribals should be prohibited. Allotment of new land in Scheduled Areas should not be made to non-aboriginals except in exceptional cases. (Para. 25 and Section F of Appendix C).

16. There should be provision for control of money-lenders by a system of licensing. (Para. 26 and Section G of Appendix C).

Sambalpur, Angul and Darjeeling and certain areas in Bombay need not be treated as Scheduled Areas. In Bihar the three districts of Ranchi, Singhbhum, and Santal Parganas only where the tribes are in a majority are included in the Schedule provisionally. The U. P. and Punjab areas are not included. (Para. 27 and Schedule B of Appendix C).



सत्यमेव जयते

FINAL REPORT

To

The Chairman,

Advisory Committee on Minorities, etc.

Dear Sir,

This is our final report written after our visit to Bihar and the United Provinces. It relates to the partially excluded areas of these provinces and the excluded areas of the Punjab in respect of all of which the recommendations contained in our interim report were provisional. Certain general recommendations have also been added.

2. With reference to Bihar we confirm the constitutional proposals already made by us *in toto*.

Bihar

We consider it necessary in addition to refer to certain matters connected with the administration of this, the largest compact block of territory comprising any excluded area in India, which came to our notice during our tour. To begin with, the Christian section of the tribals, though small in number (see statement appended), is educationally and economically far in advance of the non-Christian tribals. The demand for education among the non-Christians is said to be negligible and this presumably is the result of their economic backwardness which makes it necessary that children should assist their parents in earning their livelihood. There are however allegations that the Christian teachers and educational officials encourage only Christian children, and as a good number of the schools are run by Christian Missions, the non-Christians lack facilities for education. The Christians again appear to be much better organised and vocal and they are found to take prominent part in local and political organisations. The other striking feature of this area is the feeling common among educated tribals and shared by non-tribals in considerable measures that Chota Nagpur has little share in the administration commensurate with its area, population and industrial importance and is being neglected by the Government which is made up of elements interested mostly in the rest of Bihar. Certain non-aboriginal witnesses have expressed their views of the neglect of Chota Nagpur in no uncertain terms and suggested that the ameliorative measures claimed by the Government are purely defensive action prompted by the separation movement. Even when the Government is supposed to be resident at Ranchi, it is given as concrete proof of their lack of interest that they are mostly absent on tour in areas other than Chota Nagpur in which they are interested. Dr. Sinha has also stated that the present Government has yet to do something to capture the imagination of the people" and that under the present practice "the Hon'ble Ministers stay for a very short period at Ranchi—at their own will and convenience—and do not usually visit so much the aboriginal areas as they do those of the other three divisions of Bihar". We have referred to these statements not because we are in agreement with them or with a view to adjudicating on them but purely as indicative of the local atmosphere. Dr. Sinha has referred to the absence of the aboriginal element in the Ministry and has recommended reconstitution.

The extreme expression of the discontent prevalent in Chota Nagpur is the separatist movement which demands the formation of a new province of Jharkhand out of the partially excluded area. This movement is

sponsored at present by the Adibasi Mahasabha containing a very large advanced or Christian element but in Singhbhum and in the Santal Parganas also a good proportion of non-Christians seem to have been affected by it. To borrow Dr. Sinha's words it is "capturing the imagination" of the tribals. Unmistakably also the movement is gaining sympathy among the non-aboriginals; and even if it be partly due to mere local ambition, the virtual exclusion of tribal elements from the Cabinet has undoubtedly contributed much to it. We have already held in our interim report that the question of the formation of a separate province is not for us to tackle but we would invite the attention of the Provincial and Central Governments to the separation movement, which seems to be gaining strength, as a symptom of the discontent which is simmering in varying intensity among all sections of the Chota Nagpur population. At the same time we have noticed that the Cabinet of the Bihar Government and such an eminent public man as Dr. S. Sinha oppose the separation movement on the grounds very well shown in the brochure of Dr. Sinha. We have also received a number of telegrams from these areas saying that they thoroughly disapprove of the separatist movement.

We are inclined to the view which seems to be shared by Dr. Sinha also, that there should be adequate association of the people of the partially excluded areas, particularly the tribals, in the different branches of the administration including the Cabinet and that there can be neither satisfaction nor adequate progress until this is done. In short, the problem of administration in this tract must be dealt with not only by economic and educational improvements but also by remedies which recognise its political and psychological aspects; and we would lay the maximum emphasis on the urgency of action in both these directions.

United Provinces

3. As regards the partially excluded areas of the United Provinces viz. the Jaunsar-Bawar Pargana in the Dehra Dun District and the area comprising the Dudhi Tahsil and part of the Robertsganj Tahsil of the Mirzapur District, we find that both of these comparatively small areas are suffering from serious neglect. Although a committee was set up as early as 1939 to enquire into the administration of the Jaunsar-Bawar Pargana and a report was submitted by it in 1941, it is a matter for regret that no action has yet been possible although the report was ultimately made only by the official members of the Committee. We understand that another committee has been appointed recently this year to go into the matter by the Provincial Government and hope that speedy action will be taken on its report. The main matters which require attention in this area are as follows:—

(1) the fixation and collection of land revenue and distribution of "rights timber" through the agency of the Sayanas as well as the position of the Sayana in the village panchayat which gives rise to a great deal of oppression.

(2) survey and resettlement of the area and removal of restrictions on the possession of land and reclamation of waste land by Koltas (local depressed castes of Hindus).

(3) the elimination of social evils like polyandry and venereal disease.

In the partially excluded area of the Mirzapur District which is inhabited by a majority of tribals we find that the administration is of a pretty primitive character. The figures given in the U.P. Government's factual memorandum for the Dudhi Government Estate which are shown

below indicate that the revenue from it is not utilised to the extent of even two-fifths of the administration of the area:—

	Income	Expenditure	
1944-45	1,64,430	83,421	
1945-46	2,96,002	88,002	
1946-47	2,34,797	89,854	
TOTAL	6,95,229	2,61,277	<i>i.e. 37·6 per cent. of the income.</i>

We would draw particular attention to the statement of witnesses that a very large percentage of the population of this area is suffering from venereal disease. In the Dudhi Estate the U. P. Government have themselves noted that there is a passage of land from the hands of the aboriginals to the non-aboriginals. It would appear that the rules of the Dudhi Estate are ineffective in preventing this since land can be surrendered to the Supurdar who re-allots the same to another person, most probably a non-aboriginal. Such a transfer unfortunately does not require the approval of the S. D. O. or the Collector. It does not appear that suitable steps have been taken to put a stop to this. Among other complaints are the working of the monopoly given to Messrs. Gladstone Wyllie and Co., Ltd., for the collection and sale of lac which is terminable in the year 1952. The working of this monopoly under which only about one-seventh, or if we allow for overhead and working charges, not more than one-fourth, of the price realised by the company for the sale of the lac is obtained by the aboriginal cultivator tends to keep the aboriginal in a miserable condition. It does not appear to us that the Government have any comprehensive or fully considered programme for this area as yet.

The population of this tract is very small ($\frac{1}{4}$ per cent.) in comparison with the total population of the United Provinces. We would not on that account recommend for its future administration the proposals which we have recommended for some of the backward tracts of other provinces, but we are equally definite that special provisions for its development are essential, as without them it is certain that due attention will not be paid to its needs. Similarly although the inhabitants of the Jaunsar-Bawar Area, as pointed out in our interim report, are not tribals by race and we do not recommend inclusion in the schedule of our Interim Report special provisions are necessary for this area also. We recommend therefore constitutional provisions for both of these tracts as follows:—

(1) there should be an advisory committee consisting of tribals or backward people to the extent of not less than two-thirds of its membership to advise the Government on the development of the area;

(2) the estimated revenue and expenditure (including development schemes) pertaining to the area should be shown separately in the provincial budget;

(3) although general administration of the type in force in other districts may be applied to the tract, the trial of petty civil and criminal cases should be permissible under special regulations;

(4) there should be provision in the Constitution prohibiting the transfer of land from aboriginals to non-aboriginals except with the sanction of an authorised officer;

(5) the powers of Supurdars in the Dudhi area of Mirzapur District to allot waste lands and accept surrender of land should be withdrawn and in Jaunsar-Bawar the system of Sayanas should be abolished and the Sayanas replaced by Government employees;

(6) the U. P. Government should report to the Central Government annually or as may be required by the Central Government regarding the administration of this area and abide by its directive;

(7) there shall be one seat reserved in the Provincial Assembly for a tribal from the area of the Mirzapur District which is now partially excluded.

East Punjab

4. The disturbed conditions in the East Punjab have prevented the appearance of witnesses from Spiti and Lahoul before us and it is equally not possible for us to visit the area. It is unlikely that settled conditions will prevail in the Punjab before the passes are blocked and we do not propose therefore to postpone our recommendations which will now be based on the factual memorandum sent by the Provincial Government.

We consider that constitutional provisions should be made as follows:—

(a) An Advisory Committee of which at least 2/3 shall be local residents shall be set up to advise the Provincial Government regarding the administration of Lahoul and Spiti.

(b) The Provincial Government may declare any law passed by the Federal or Provincial Legislature as not applicable to the tracts or applicable with specified modifications.

(c) The Provincial Government may make special regulations for the administration of criminal and civil law and the protection of rights of local Tibetan inhabitants in land.

(d) The Provincial Government shall report to the Central Government annually or as may be required by the Central Government regarding the administration of this area and abide by its directive.

(e) We confirm the recommendation made in paragraph 9 of the Interim Report that there should be a representative for Lahoul and Spiti in the Provincial Legislature.

5. **A Central Department.**—After surveying the position in all the provinces, we have been forced to the conclusion that unless there is a separate department of the Federal Government prescribed by Statute to supervise and watch the development of the scheduled areas and the tribals in the different provinces and to furnish such advice and guidance as may be needed, the pace of progress of the tribes will not be sufficiently swift. The Central Government have already recognised the need for a Directorate of Anthropological Survey and we recommend that provision for a Central Department of Tribal Welfare should be made in the Constitution.

6. Recruitment to Armed Forces.—We are also of the view that special attention should be paid to the recruitment of the tribes to the armed forces of India. The tribes people can in our opinion furnish valuable material for this purpose as experience in the last war goes to show.

7. Village and Tribal Headmen.—During the course of our enquiry many complaints of oppression and mishandling of the tribes people by the hereditary chiefs or heads of villages like the Mustadars Bissois and Paros and Muthadars of South Orissa, the Parganaits and Pradhans of the Santal Parganas and the Mankis and Mundas of Singhbhum have reached us. We are of the view that a general review of the powers and functions of such village or tribal heads should be undertaken by Provincial Governments with a view to removing the grievances of the tribal villagers, the abolition of powers which are exercised in an oppressive manner and the general reform of these ancient systems.

8. Non-official welfare organisations.—We recommend that the Provincial Governments should utilise the services of approved non-official organisations which are at present doing welfare work in the provinces for the tribals or which may hereafter come into existence by giving them grants-in-aid with a view to supplementing the volume of development work.

9. Officials to learn tribal language.—We have found that officials posted to aboriginal areas rarely know the local language. This obviously does not conduce to satisfactory administration and we are of the view that it should be made compulsory for officials posted to the aboriginal areas to obtain a working knowledge of the language within a reasonable period. Proficiency in these languages or dialects should be encouraged by the grant of suitable awards.

Yours truly,

A. V. THAKKAR,

Chairman, E. & P. E. Areas (other than

Assam) Sub-Committee.

Members—

RAJKRUSHNA BOSE,

PHUL BHAN SHAH,

JAIPAL SINGH.

(Subject to Minute of Dissent).

DEVENDRA NATH SAMANTA.

(Subject to Minute of Dissent).

PROFULLA CHANDRA GHOSH.

The percentage of Tribal population on to the total population in 6 Districts of Bihar and of the Christian population to that of the Tribal population.

Name of District	Total population	Tribal population	Percentage	Christian Tribal population	Percentage
1. Santhal Parganas .	22,34,500	11,29,885	50·5	23,205	2·05
2. Hazaribagh . .	17,51,300	4,78,253	27·8	2,593	0·54
3. Ranchi . . .	16,75,400	11,73,142	70·0	2,85,200	24·31
4. Palamau . . .	9,12,700	3,23,106	35·4	10,786	3·34
5. Manbhum . . .	20,32,100	6,78,126	33·3	1,354	0·19
6. Singhbhum . .	11,44,700	6,68,597	58·4	17,775	2·65
Total	97,50,700	44,51,109	45·65	3,40,913	7·66

सत्यमेव जयते

MINUTE OF DISSENT

I submitted a dissenting minute against the provisional report which had included recommendations for those tribal areas also which had then not been visited. After the visit of the Sub-Committee to these areas, I am more than confirmed in my opinion that all the six districts of the Chhota Nagpur Plateau, namely, Manbhum, Singhbhum, Palamau, Hazaribagh, Ranchi and the Santhal Parganas, should remain "Scheduled Areas". All the witnesses were emphatic that the Chhota Nagpur Division as a whole should be scheduled and no district or territory should be excluded from the scheduled status. Even Dr. Sachchidananda Sinha, whose Memorandum has received such attention from the other members of the Sub-Committee, has admitted that for administrative reasons all the six districts should be scheduled. I have other reasons also for the same insistence but the most vital one is the necessity of protecting 1,479,485 Adibasis of the districts of Manbhum, Hazaribagh and Palamau with the veto of the Tribes Advisory Council. This 1941 Census figure is large enough to justify the claim that 15 lakhs of Adibasis should not be exposed to the dangers of General Administration.

Partially Excluded Areas in Mirzapur District.—The tribal tract in Mirzapur district should be transferred to the Scheduled Area of the Chota Nagpur Plateau. Administratively as well as geographically, the Bihar Government would be in a better position to manage this far-off corner of the United Provinces.

Chittagong Hill Tracts.—The Indian Government must claim back the Chittagong Hill Tracts. The Radcliffe Award must be altered in regard to them.

Sept. 25th, 1947.

JAIPAL SINGH.



NOTE BY CHAIRMAN

on
Minute of Dissent by Shri Jaipal Singh

I do not think that any witnesses whom the Committee examined were explained our proposal that was under contemplation by the Committee about "Scheduling" of certain areas in some provinces. "Scheduling" has a certain special meaning which was not explained to nor known by witnesses at all, not even to Dr. Sachchidananda Sinha. Therefore they could not distinguish between "Schedule and non-schedule" areas in which Tribes reside. Therefore the statement that, all the witnesses were emphatic that the Chhota Nagpur Division as a whole should be scheduled and that no District or territory should be excluded from the "Scheduled States" is incorrect, at any rate, very highly exaggerated.

The Tribal people in Manbhum District form only 33·3 per cent. of the total population. In Hazaribagh 27·8 is the similar percentage. The Latehar Sub-Division of the Palamau District has been recommended by the Sub-Committee as "Schedule". But in the Sadar Sub-Division the percentage is only 26·0. Moreover there are very small compact areas in the two districts mentioned above and in the Sadar Sub-Division of Palamau District which have a Tribal population of more than 40 per cent. of the total population, the tribal people have assimilated themselves with the rest of the population so as to be indistinguishable in those areas. It is not therefore necessary to "schedule" the districts of Manbhum and Hazaribagh and the Sadar Sub-Division of Palamau District for the small percentage of the Tribal people who are dispersed among the rest of the population, and thus to brand these 2½ districts as backward.

As has already been shown in the body of the report the area of Dudhi Tahsil and parts of Robertsganj are too small to be made a Scheduled Area. It is a very fantastic proposal to detach this area from the United Provinces and to tag it on to Bihar Province. It requires no argument to say that this proposal can form no part of this Committee's proposal.

Chittagong Hill Tracts is a purely 97 per cent. Buddhistic or non-Muslim area and this Committee would have been too glad, had it formed a part of West Bengal but as the Boundary Commission gave its decision to the contrary and it was accepted by both the Dominions of India and Pakistan. The Committee has been very sorry to know this decision but the award of the Boundary Commission is unalterable.

Delhi, 25-9-1947

A. V. THAKKAR,

Chairman.

MINUTE OF DISSENT

The Sub-Committee submitted a provisional report prior to visiting Bihar. While submitting that report I raised a question to the effect that all districts of Chotanagpur Division and Santhal Pargana should be included as Scheduled Areas. During Bihar tour evidence adduced before the Sub-Committee strongly confirmed my contention that the aforesaid areas deserve to be included as Scheduled Areas. The evidence including that of Dr. Sachchidananda Sinha strongly support this contention. Inclusion of the aforesaid tracts as Scheduled Areas is strongly warranted.

The 13th October, 1947.

D. N. SAMANTA.

**JOINT REPORT OF THE EXCLUDED AND PARTIALLY EXCLUDED
AREAS (OTHER THAN ASSAM) SUB-COMMITTEE AND THE
NORTH EAST FRONTIER (ASSAM) TRIBAL AND EXCLUDED
AREAS SUB-COMMITTEE OF THE ADVISORY COMMITTEE.**

In accordance with the ruling of the Chairman, Advisory Committee, we have held a joint meeting of our two sub-committees. Separate reports have already been submitted by us which in the case of the Assam Sub-Committee contains final recommendations, and in the case of the other Sub-Committee is final for the Provinces of Madras, Bombay, Bengal, the Central Provinces and Orissa, and is provisional for Bihar, the United Provinces and the Punjab which have yet to be visited in respect of which witnesses are yet to be examined. The report of the latter Sub-Committee contains however the framework of the proposals likely to be adopted finally. Although that report is not final for all Provinces, this joint report is being submitted so that the recommendations could be taken into consideration by the Advisory Committee, if this is necessary, before the final report is available towards the end of September. We would further point out that the position of the excluded and partially excluded areas has undergone a change with the coming into operation of the Indian Independence Act and the adapted Constitution of 1935. Under the Indian Independence Act so much of the provisions of the Government of India Act, 1935 as requires a Governor to act in his discretion or exercise his individual judgment ceases to have effect from the 15th of August. The partially excluded areas are represented in the legislatures, however inadequately, but in the case of the excluded areas the change implies that they are brought under the jurisdiction of the Ministry without representation in the legislature. Taking into account the past history of these tracts, the needs and susceptibilities, of the people and other factors, it appears desirable that the Provincial Governments should at least be aware of our recommendations as soon as possible so that their policy may be guided thereby even if other steps are not found necessary in the Constituent Assembly for their implementation at an early date. We recommend that Provincial Governments should be advised to take such action as the establishment of District Councils and Tribal Advisory Councils as may be possible immediately to give effect to the policy recommended by us and to make such statutory regulations for this purpose as may be necessary.

2. Coming to the actual recommendations made by the two Sub-Committees, we are of the view that although certain features are common to all these areas, yet the circumstances of the Assam Hill Districts are so different that radically different proposals have to be made for the areas of this Province. The distinguishing feature of the Assam Hills and Frontier Tracts is the fact that they are divided into fairly large districts inhabited by single tribes or fairly homogenous groups of tribes with highly democratic and mutually exclusive tribal organisation and with very little of the plains leaven which is so common a feature of the corresponding areas, particularly the partially excluded areas of other Provinces. The Assam Hill Districts contain, as a rule, upwards of 90 per cent. of tribal population whereas, unless we isolate small areas, this is generally not the case in the other Provinces. The tribal population in the other Provinces has moreover assimilated to a considerable extent the life and ways of the plains people and tribal organisations have in many places completely disintegrated. Another feature is that some of the areas in Assam like the Khasi Hills or the Lushai Hills, show greater potentialities for quick progress than tribes in the other Provinces. They may also be distinguished by their greater eagerness for reform in which they have a

dominant share than the apathy shown by the tribals of some other Provinces. Having been excluded totally from ministerial jurisdiction and secluded also from the rest of the Province by the Inner Line system, a parallel to which is not to be found in any other part of India, the excluded areas have been mostly anthropological specimens; and these circumstances together with the policy of officials who have hitherto been in charge of the tracts have produced an atmosphere which is not to be found elsewhere. It is in these conditions that proposals have been made for the establishment of special local councils which in their separate hill domains will carry on the administration of tribal law and control the utilisation of the village land and forest. As regards the features common to tribal areas in other Provinces, the Assam hillman is as much in need of protection for his land as his brother in other Provinces. He shares the backwardness of his tract and in some parts the degree of illiteracy and lack of facilities for education, medical aid and communications. Provision is necessary for the development of the hill tracts in all these matters and we have found it necessary to recommend constitutional safeguards of various kinds.

3. The differences between Assam and other areas as well as certain common features have been indicated above. While in Assam the Hill Districts present features of their own and the Assam Sub-Committee have confined their recommendations on the whole to these tracts, it has not been possible for the other Sub-Committee to deal with the problems of the tribes in exactly the same manner. The special features of the hills have been mentioned and they distinguish almost to the same degree the tribesmen in the hills and the tribesmen in the plains of Assam as they do the regular plains inhabitants. The total population censused as tribal in the plains of Assam is about 1·5 million out of which possibly some 50 per cent. consists of tea-garden labour, drawn in part from other provinces. This portion of the plains tribals is of course a population which has assimilated in high degree the life of the plains. The stable population of plains tribals is more or less in the same position. As regards other Provinces, the degree of assimilation is on the whole greater whether the tribesman is found in the hills or in the more accessible parts although some of the small tribes in the Agency Tracts of Orissa and Madras have hardly come into contact with the plains. In any case their outlook is totally different. From the very manner in which partially excluded areas have been formed it has not been possible to include large numbers of tribals who are scattered about in the Provinces irrespective of whether their condition was advanced or otherwise. It has been necessary therefore to treat all persons of tribal origin as a single minority and not separately as in the case of Assam. In this method of treatment therefore the recommendations for other Provinces differ radically from the proposals for Assam. The excluded and partially excluded areas however contain considerable concentrations of tribes people and generally they are in hilly and comparatively inaccessible areas with no communications and facilities for the development of the population. Land for them also is a vital factor and protection of the tribals' land is an essential need. The financial requirements of the Scheduled Areas are considerable, and the Centre will have to come to the assistance of certain Provinces at any rate. Thus the essential features of the proposals for the tribals of Provinces other than Assam are proportionate representation for the tribals as a whole in the Legislature, the scheduling of certain areas as in need of special attention and in which the protection of land and the social organisation of the tribals is an indispensable need. To facilitate the proper administration of the

tribes, a Tribes Advisory Council with statutory functions is recommended for the Provinces of Madras, Bombay, the Central Provinces, Bihar, West Bengal and Orissa, and the application of provincial legislation to the Scheduled Areas is linked up with this Advisory Council.

4. The common proposals for Assam and other Provinces is that of provision of funds by the Centre and a separate financial statement in the budget for the Hill Districts (Assam) and the Scheduled Areas (other Provinces). The inclusion of provisions for the control of moneylenders is another common feature.

5. We have attached copies of the Appendices to the separate reports which indicate the legal provisions necessary and a summary of the recommendations of both the Sub-Committees.

6. We recommended that the plains tribals of Assam should be recognised as a minority and should be entitled to all the privileges of a minority including representation in the legislatures in proportion to population and in the services; and that their land should be protected.

7. Subject therefore to the special provisions for the representation of the Hill Districts of Assam, all tribals should be recognised as a minority for the purposes of representation in the legislatures and in the services.

G. N. BARDOLOI, *Chairman*

N. E. F. (Assam)

Tribal & Excluded Areas

Sub-Committee.

A. V. THAKKAR, *Chairman*

Excluded & Partially

Excluded Areas

(Other than Assam)

Sub-Committee.

Dated, New Delhi, the 25th August 1947.

सत्यमेव जयते

**APPENDIX A TO PART I OF NORTH-EAST FRONTIER (ASSAM)
TRIBAL AND EXCLUDED AREAS SUB-COMMITTEE REPORT.**

A. (1) The areas included in schedule A to this part shall be autonomous districts.

(2) An autonomous district may be divided into autonomous regions.

(3) Subject to the provisions of Section P the Government of Assam may from time to time notify any area not included in the said schedule as an autonomous district or as included in an autonomous district and the provisions of this Part shall thereupon apply to such area as if it was included in the said schedule.

(4) Except in pursuance of a resolution passed by the District Council of an autonomous district in this behalf the Government of Assam shall not notify any district specified or deemed to be specified in the schedule or part of such district, as ceasing to be an autonomous district or a part thereof.

B. (1) There shall be a District Council for each of the areas specified in schedule A. The Council shall have not less than twenty nor more than forty members, of whom not less than three-fourths shall be elected by universal adult franchise.

NOTE.—If adult franchise is not universally adopted this provision will have to be altered.

(2) The constituencies for the elections to the District Council shall be so constituted, if practicable, that the different tribals or non-tribals, if any, inhabiting the area shall elect a representative from among their own tribe or group:

Provided that no constituency shall be formed with a total population of less than 500.

(3) If there are different tribes inhabiting distinct areas within an autonomous district, there shall be a separate Regional Council for each such area or group of areas that may so desire.

(4) The District Council in an autonomous district with Regional Councils shall have such powers as may be delegated by the Regional Councils in addition to the powers conferred by this constitution.

(5) The District or the Regional Council may frame rules regarding (a) the conduct of future elections, the composition of the Council, the office-bearers who may be appointed, the manner of their election and other incidental matters, (b) the conduct of business, (c) the appointment of staff, (d) the formation and functioning of subordinate local councils or boards, (e) generally all matters pertaining to the administration of subjects entrusted to it or falling within its powers:

Provided that the Deputy Commissioner or the Sub-divisional officer as the case may be of the Mikir and the North Cachar Hills shall be the Chairman *ex-officio* of the District Council and shall have powers for a period of six years after the constitution of the Council, subject to the control of the Government of Assam, to annul or modify any resolution or decision of the District Council or to issue such instructions as he may consider appropriate.

C. (1) The Regional Council, or if there is no Regional Council, the District Council, shall have power to make laws for the area under its jurisdiction regarding (a) allotment, occupation or use for agricultural, residential or other non-agricultural purposes, or setting apart for grazing, cultivation, residential or other purposes ancillary to the life of the village or town, of land other than land classed as reserved forest under the Assam Forest Regulation, 1891 or other law on the subject applicable to the district:

Provided that land required by the Government of Assam for public purposes shall be allotted free of cost if vacant, or if occupied, on payment of due compensation in accordance with the law relating to the acquisition of land; (b) the management of any forest which is not a reserve forest; (c) the use of canal or water courses for the purposes of agriculture; (d) controlling, prohibiting or permitting the practice of *jhum* or other forms of shifting cultivation; (e) the establishment of village or town committees and councils and their powers; (f) all other matters relating to village or town management, sanitation, watch and ward.

(2) The Regional Council or if there is no Regional Council, the District Council shall also have powers to make laws regulating (a) the appointment or succession of chiefs or headmen; (b) inheritance of property; (c) marriage and all other social customs.

D. (1) Save as provided in Section F the Regional Council, or if there is no Regional Council, the District Council, or a court constituted by it in this behalf shall have all the powers of a final court of appeal in respect of cases or suits between parties, all of whom belong to hill tribes, in its jurisdiction.

(2) The Regional Council, or if there is no Regional Council the District Council may set up Village Councils or Courts for the hearing and disposal of disputes or cases other than cases triable under the provisions of Section F, or cases arising out of laws passed by it in the exercise of its powers, and may also appoint such officials as may be necessary for the administration of its laws.

E. The District Council of an autonomous district shall have the powers to establish or manage primary schools, dispensaries, markets, cattle pounds, ferriers, fisheries, roads and waterways and in particular may prescribe the language and manner in which primary education shall be imparted.

F. (1) For the trial of acts which constitute offences punishable with imprisonment for five years or more or with death, or transportation for life under the Indian Penal Code or other law applicable to the district or of suits arising out of special laws or in which one or more of the parties are non-tribals, the Government of Assam may confer such powers under the Criminal Procedure Code or Civil Procedure Code as the case may be on the Regional Council, the District Council or Courts constituted by them or an officer appointed by the Government of Assam as it deems appropriate and such courts shall try the offences or suits in accordance with the Code of Criminal Procedure or Civil Procedure as the case may be.

(2) The Government of Assam may withdraw or modify powers conferred on the Regional Council or District Council or any court or officer under this section.

(3) Save as provided in this section the Criminal Procedure Code and the Civil Procedure Code shall not apply to the autonomous district.

NOTE.—“Special Laws”—Laws of the type of the law of contract, company law or insurance, etc., are contemplated.

G. (1) There shall be constituted a District or Regional Fund into which shall be credited all moneys received by the District Council or Regional Council as the case may be in the course of its administration or in the discharge of its responsibilities.

(2) Rules approved by the Comptroller of Assam shall be made for the management of the Fund by the District or Regional Council and management of the Fund shall be subject to these rules.

H. (1) A Regional Council, or if there is no Regional Council the District Council shall have the following powers of taxation:

(a) subject to the general principles of assessment approved in this behalf for the rest of Assam, land revenue (b) poll tax or house tax.

(2) The District Council shall have powers to impose the following taxes, that is to say (a) a tax on professions, trades or calling, (b) a tax on animals, vehicles, (c) toll tax, (d) market dues, (e) ferry dues, (f) cesses for the maintenance of schools, dispensaries or roads.

(3) A Regional Council or District Council may make rules for the imposition and recovery of the taxes within its financial powers.

I. (1) The Government of Assam shall not grant any licence or lease to prospect for or extract minerals within an autonomous district save in consultation with the District Council.

(2) Such share of the royalties accruing from licences or leases for minerals as may be agreed upon shall be made over to the District Council. In default of agreement such share as may be determined by the Governor in his discretion shall be paid.

J. (1) The District Council may for the purpose of regulating the profession of moneylending, or trading by non-tribals in a manner detrimental to the interests of the tribals make rules applicable to the district or any portion of it: (a) prescribing that except the holder of a licence issued by the Council in this behalf no person shall carry on moneylending, (b) prescribing the maximum rate of interest which may be levied by a moneylender, (c) providing for the maintenance of accounts and for their inspection by its officials, (d) prescribing that no non-tribal shall carry on wholesale or retail business in any commodity except under a licence issued by the District Council in this behalf:

Provided that no such rules may be made unless the District Council approves of the rules by a majority of not less than three fourths of its members:

Provided further that a licence shall not be refused to moneylenders and dealers carrying on business at the time of making of the rules.

K. (1) The number of members representing an autonomous district in the Provincial Legislature shall bear at least the same proportion to the population of the district as the total number of members in that Legislature bears to the total population of Assam.

(2) The total number of representatives allotted to the autonomous districts which may at any time be specified in Schedule A in accordance

with Sub-section (1) of this Section shall not be taken into account in reckoning the total number of representatives to be allotted to the rest of the Province under the provisions of Section.....of the Provincial Constitution.

(3) No constituencies shall be formed for the purpose of election to the Provincial Legislature which include portions of other autonomous districts or other areas, nor shall any non-tribal be eligible for election except in the constituency which includes the Cantonment and Municipality of Shillong.

L. (1) Legislation passed by the provincial legislature in respect of (a) any of the subjects specified in section C or (b) prohibiting or restricting the consumption of any non-distilled alcoholic liquor, shall not apply to an autonomous district.

(2) A Regional Council of an autonomous district or if there is no Regional Council, the District Council may apply any such law to the area under its jurisdiction, with or without modification.

M. The revenue and expenditure pertaining to an autonomous district which is credited to or met from the funds of the Government of Assam shall be shown separately in the annual financial statement of the Province of Assam.

N. There shall be paid out of the revenues of the Federation to the Government of Assam such capital and recurring sums as may be necessary to enable that Government—(a) to meet the average excess of expenditure over the revenue during the three years immediately preceding the commencement of this constitution in respect of the administration of the areas specified in Schedule A; and (b) to meet the cost of such schemes of development as may be undertaken by the Government with the approval of the Federal Government for the purpose of raising the level of administration of the aforesaid areas to that of the rest of the province.

O. (1) The Governor of Assam may at any time institute a commission specifically to examine and report on any matter relating to the administration or, generally at such intervals as he may prescribe, on the administration of the autonomous districts generally and in particular on (a) the provision of educational and medical facilities and communications, (b) the need for any new or special legislation and (c) the administration of the District or Regional Councils and the laws or rules made by them.

(2) The report of such a commission with the recommendations of the Governor shall be placed before the provincial legislature by the Minister concerned with an explanatory memorandum regarding the action taken or proposed to be taken on it.

(3) The Governor may appoint a special Minister for the Autonomous Districts.

P. (1) The Government of Assam may, with the approval of the Federal Government, by notification make the foregoing provisions or any of them applicable to any area specified in Schedule B to this Part, or to a part thereof; and may also, with the approval of the Federal Government, exclude any such area or part thereof from the said Schedule.

(2) Till a notification is issued under this section, the administration of any area specified in Schedule B or of any part thereof shall be carried on

by the Union Government through the Government of Assam as its agent.

Q. (1) The Governor of Assam in his discretion may, if he is satisfied that any act or resolution of a Regional or District Council is likely to endanger the safety of India, annul or suspend such act or resolution and take such steps as he may consider necessary (including dissolution of the Council and the taking over of its administration) to prevent the commission or continuation of such act or giving effect to such resolution.

(2) The Governor shall place the matter before the legislature as soon as possible and the legislature may confirm or set aside the declaration of the Governor.

R. The Governor of Assam may on the recommendation of a commission set up by him under section N order the dissolution of a Regional or District Council and direct either that fresh election should take place immediately, or with the approval of the legislature of the province, place the administration of the area directly under himself or the commission or other body considered suitable by him, during the interim period or for a period not exceeding twelve months:

Provided that such action shall not be taken without affording an opportunity to the District or Regional Council to be heard by the provincial legislature and shall not be taken if the provincial legislature is opposed to it.

Transitional Provisions.

Governor to carry on administration as under the 1935 Act till a Council is set up, he should take action to constitute the first District Council or Regional Councils and frame provisional rules in consultation with existing Tribal Councils or other representative organisations, for the conduct of the elections, prescribe who shall be the office bearers, etc. The term of the first Council to be one year.

GOPINATH BARDOLOI, (*Chairman*).

J. J. M. NICHOLS ROY.

RUP NATH BRAHMA.

A. V. THAKKAR.

Schedule A

The Khasi and Jaintia Hills District excluding the town of Shillong.

The Garo Hills District.

The Lushai Hills District.

The Naga Hills District.

The North Cachar Sub-division of the Cachar District.

The Mikir Hills portion of Nowgong and Sibsagar District excepting the mouzas of Barpathar and Sarupathar.

Schedule B

The Sadiya and Balipara Frontier Tracts.

The Tirap Frontier Tract (excluding the Lakhimpur Frontier Tract).

The Naga Tribal Area.

SUMMARY OF RECOMMENDATIONS OF THE ASSAM SUB-COMMITTEE

District Councils should be set up in the Hill Districts (see Section B of Appendix A) with powers of legislation over occupation or use of land other than land comprising reserved forest under the Assam Forest Regulation of 1891 or other law applicable. This is subject to the proviso that no payment would be required for the occupation of vacant land by the Provincial Government for public purposes and private land required for public purposes by the Provincial Government will be acquired for it on payment of compensation. [Paragraph 9—Section C(1) Appendix A.]

2. Reserved forests will be managed by the Provincial Government in questions of actual management including the appointment of forest staff and the granting of contracts and leases, the susceptibilities and the legitimate desires and needs of the Hill People should be taken into account. (Para. 10).

3. On account of its disastrous effects upon the forest, rainfall and other climatic features, *jhuming* should be discouraged and stopped wherever possible but the initiative for this should come from the tribes themselves and the control of *jhuming* should be left to the local councils. (Para. 11 and Section C Appendix A).

4. All social law and custom is left to be controlled or regulated by the tribes [Para. 12 and Section C (2) of Appendix A]. All criminal offences except those punishable with death, transportation or imprisonment for five years and upwards should be left to be dealt with in accordance with local practice and the Code of Criminal Procedure will not apply to such cases. As regards the serious offences punishable with imprisonment of five years or more they should be tried henceforth regularly under the Criminal Procedure Code. To try such cases, powers should be conferred by the Provincial Government wherever suitable upon tribal councils or courts set up by the district councils themselves.

All ordinary civil suits should be disposed of by tribal courts and local councils may have full powers to deal with them including appeal and revision.

Where non-tribals are involved, civil or criminal cases should be tried under the regular law and the Provincial Government should make suitable arrangements for the expeditious disposal of such cases by employing circuit magistrates or judges. (Para. 12—Section D & F. of Appendix A).

5. The District Councils should have powers of management over primary schools, dispensaries and other institutions which normally come under the scope of local self-governing institutions in the plains. They should have full control over primary education. As regards secondary school education, there should be some integration with the general system of the province and it is left open to the Provincial Government to entrust local councils with responsibility for secondary schools wherever they find this suitable. (Paragraph 13 and Section E of Appendix A).

For the Mikir and North Cachar Hills the District or Sub-Divisional Officer, as the case may be, should be *ex-officio* President of the local council with powers, subject to the control of the Government of Assam,

to modify or annul resolutions or decisions of the local councils and to issue such instructions as may be necessary. [Paragraph 13 and Section B(5) of Appendix A].

6. Certain taxes and financial powers should be allocated to the councils. They should have all the powers which local bodies in regulation districts enjoy and in addition they should have powers to impose house tax or poll tax, land revenue and levies arising out of the powers of management of village forest. [Section H of Appendix A and Para. 14(a)].

Statutory provision of a fixed proportion of provincial funds to be spent on the hill districts is not considered practicable. A separate financial statement for each hill district showing the revenue derived from the district and the expenditure proposed on it is recommended. The framing of a suitable programme of development should be enjoined either by statute or by Instrument of Instructions. [Section M of Appendix A and para. 14(b)].

It is quite clear that the urgent requirements of the hill districts by way of expenditure on development schemes are beyond the resources of the Provincial Government. The development of the hill districts should be as much the concern of the Federal Government as the Provincial Government. Financial assistance should be provided by the Federation to meet the deficit in the ordinary administration on the basis of the average deficit during the past three years and the cost of development schemes should also be borne by the Central Exchequer. [Section N of Appendix A and para. 14(c)].

The claims of the hill district councils for assistance from general provincial revenues to the extent that they are unable to raise the necessary finances within their own powers is recognised. [Paragraph 14(d)].

7. If local councils decide by a majority of three-fourths of their members to license moneylenders or traders they should have powers to require moneylenders and professional dealers from outside to take out licences. (Paragraph 15 and Section J of Appendix A).

8. The management of mineral resources should be centralised in the hands of the Provincial Government but the right of the district councils to a fair share of the revenues is recognised. No licence or lease shall be given by the Provincial Government except in consultation with the local Council. If there is no agreement between the Provincial Government and the district council regarding the share of the revenue, the Governor will decide the matter in his discretion. (Paragraph 16 and Section I of Appendix A).

9. Provincial legislation which deals with the subjects in which the hill councils have legislative powers will not apply to the hill districts. Legislation prohibiting the consumption of non-distilled liquors like Zu will also not apply; the district council may however apply the legislation. (Paragraph 17 and Section L of Appendix A).

10. It is necessary to provide for the creation of regional councils for the different tribes inhabiting an autonomous district if they so desire. Regional councils have powers limited to their customary law and the management of lands and villages and courts. Regional councils may delegate their powers to the district councils. [Para. 18 and Section B(4) of Appendix A].

11. The Governor is empowered to set aside any act or resolution of the council if the safety of the country is prejudiced and to take such action as may be necessary including dissolution of the local councils subject to the approval of the legislature. The Governor is also given powers to dissolve the council if gross mismanagement is reported by a commission. (Paragraph 19 and Section Q and R of Appendix A).

12. The Central Government should continue to administer the Frontier Tracts and Tribal Area with the Government of Assam as its agent until administration has been satisfactorily established over a sufficiently wide area. Areas over which administration has been satisfactorily established may be taken over by the Provincial Government with the approval of the Federal Government. [Section P of Appendix A and para. 20(a)].

The pace of extending administration should be greatly accelerated and separate officers appointed for the Lohit Valley, the Siang Valley and the Naga Tribal Area. [Para. 20(a)].

The Lakhimpur Frontier Tract should be attached to the regular administration of the district. The case of the portion of the Lakhimpur Frontier Tract recently included in the Tirap Frontier Tract should be examined by the Provincial Government with a view to a decision whether it could immediately be brought under provincial administration. A similar examination of the position in the plains portions of the Sadiya Frontier Tract is recommended. The portion of the Balipara Frontier Tract around Charduar should also be subject to a similar examination. [Para. 20(b)].

Posa payment should be continued. [Para. 20(c)].

13. The excluded areas other than the Frontier Tracts should be enfranchised immediately and restriction on the franchise in the Garo and Mikir Hills should be removed and adult franchise introduced. [Para. 21(a) and Section B(1) of Appendix A].

Weightage is not considered necessary but the hill districts should be represented in the provincial legislature in proportion not less than what is due on their population even if this involves a certain weightage in rounding off. The total number of representatives for the hills thus arrived at [See para. 21(b)] should not be taken into account in determining the number of representatives to the provincial legislature from the rest of Assam. [Para. 21(b) and Section K of Appendix A].

The total population of the hill districts justifies a seat for the hill tribes in the Federal Legislature on the scale proposed in Section 11(c) of the Draft Union Constitution. [Para. 21(c)].

Joint electorate is recommended but constituencies are confined to the autonomous districts. Reservation of seats in view of this restriction, is not necessary. [Para. 21(d) and Section K(3) of Appendix A].

Non-tribals should not be eligible for election from hill constituencies except in the constituency which includes the Municipality and Cantonment of Shillong. [Para. 21(e) and Section K(8) of Appendix A].

14. Representation for the hills in the Ministry should be guaranteed by statutory provision if possible or at least by a suitable instruction in the Instrument of Instructions or corresponding provision. [Paragraph 22—See also Section O(3) of Appendix A].

15. Non-tribal officials should not be barred from serving in the hills but they should be selected with care if posted to the hills. The appointment of a due proportion of hill people in the services should be parti-

16. A commission may be appointed at any time or permanently to enable the Government to watch the progress of development plans or to examine any particular aspects of the administration. [Paragraph 24 and Section O(i) of Appendix A].

18. The question of altering boundaries so as to bring the people of the same tribe under a common administration should be considered by the Provincial Government. The Barpathar and Sarupathar Mouzas included in the Mikir Hills should be included in the regularly administered areas henceforth. (Paragraph 26).

20. Provincial councils should be set up by the Governor of Assam after consulting such local organisations as exist. These provisional councils which will be for one year will have powers to frame their own constitution and rules for the future. (Paragraph 29 and Transitional Provisions of Appendix A also).



**SCHEDULE 13 TO GOVERNMENT OF INDIA (PROVINCIAL
LEGISLATIVE ASSEMBLIES) ORDER, 1936**

Backward Tribes

Part V

ASSAM

The following Tribes and Communities:—

- | | |
|--------------------------|---|
| 1. Kachari. | 9. Deori. |
| 2. Boro or Boro-Kachari. | 10. Abor. |
| 3. Rabha. | 11. Mishmi. |
| 4. Miri. | 12. Dafia. |
| 5. Lalung. | 13. Singhpho. |
| 6. Mikir. | 14. Khampti. |
| 7. Garo. | 15. Any Naga or Kuki tribe. |
| 8. Hajong. | 16. Any other tribe or community for
the time being designated by the
Governor in his discretion. |



सत्यमेव जयते

GENERAL SUMMARY OF

The Reports of the Excluded & Partially Excluded Areas (other than Assam Sub-Committee and the North-East Frontier (Assam) Tribal and Excluded Areas Sub-Committee [including the Final Report of the E. & P. E. Areas (other than Assam) Sub-Committee].

I

In provinces other than Assam, with the exception of the Laccadive Islands of Madras and the Spiti and Lahoul area of the Punjab, there are no excluded areas. In both of these excluded areas the population is not ethnically tribal. In the Laccadive Islands the islanders are Muslims of the same stock as the Moppilla of Malabar. In Minicoy they are believed to be of Sinhalese origin. In Spiti and Lahoul the inhabitants are of Tibetan origin. In the remaining partially excluded areas of provinces other than Assam the principal tribes to be found are Santal, Gond, Bhil, Munda, Oraon, Kondh, Ho and Savara. Many minor tribes like Korku, Pardhan, Kol, Bhumij, Warli also inhabit the areas. The total population* of all the tribes, excluding Assam, is about 13½ millions of which approximately 8 millions inhabit the partially excluded areas. With the exception of certain small tribes like the Bonda, Porja and the Kutia Kondh of Orissa, all the remaining tribes have experienced varying degrees of sophistication and come into contact with people of the plains and advanced tracts. Although the tribals living in the non-excluded areas are often hard to distinguish from the plains people among whom they live, they are generally in a backward condition which is sometimes worse than the condition of the scheduled castes. It is not possible therefore to leave them out of consideration on the ground that only the tribes in the partially excluded areas need attention. All the tribes of provinces other than Assam, whether living in the plains or in the partially excluded tracts, should, as one whole be treated as a minority. As regards Assam, conditions in the hill districts of which the Naga Hills, the Lushai Hills and the North Cachar Hills have been excluded are on a totally different footing and the atmosphere, particularly in these excluded areas, is one which is not to be found elsewhere. These areas must therefore be treated separately from the rest. As regards plains tribals the total number of whom, excluding Sylhet, comes to approximately 1·5 million according to census figures, about seven lakhs are tea-garden labour from various parts of the country [not included in the schedule B to the Government of India (Legislative Assemblies Order) 1936] are not to be taken into account as tribes of Assam. The tribal population of the excluded and partially excluded areas comes to about 8½ lakhs. In Assam there are in addition the frontier tracts and tribal areas in which conditions of settled administration prevail only to a very small extent and large areas cannot be said to be under regular administration at all. Even now, in the northern frontier tracts, Tibetan tax-collectors make inroads and, in the Naga tribal area, head-hunting goes on. The administration of these areas still involves contact with foreign States and problems of defence.

2. The areas inhabited by the tribes, whether in Assam or elsewhere are difficult of access, highly malarial and infested also in some cases by

*Including Assam, the total population of the tribes in the provinces is 15·9 millions.

other diseases like yaws and venereal disease and lacking in such civilizing facilities as roads, schools, dispensaries and water supply. The tribes themselves are for the most part extremely simple people who can be and are exploited with ease by plainsfolk resulting in the passage of land formerly cultivated by them to money-lenders and other erstwhile non-agriculturists. While a good number of superstitions and even harmful practices are prevalent among them the tribes have their own customs and way of life with institutions like tribal and village panchayats or councils which are very effective in smoothing village administration. The sudden disruption of the tribals customs and ways by exposure to the impact of a more complicated and sophisticated manner of life is capable of doing great harm. Considering past experience and the strong temptation to take advantage of the tribals simplicity and weaknesses it is essential to provide statutory safeguards for the protection of the land which is the mainstay of the aboriginal's economic life and for his customs and institutions which, apart from being his own, contain elements of value. In making provisions however allowance could be made for the fact that in the non-excluded areas the tribals have assimilated themselves in considerable degree to the life of the people with whom they live and the special provisions concerning legislation in particular are therefore proposed largely for the schedule areas (provinces other than Assam; see page 33 of this volume) and the autonomous districts [(Assam) Para. 13 of Report and Section A of Appendix A on p. 19 of Report].

3. Although in the case of the autonomous districts of Assam a distinction has been made, the proposals in the main contemplate that tribals should be treated as a minority in the matter of representation in the legislatures and recruitment to the various services of the Central and Provincial Governments. In the case of the tribals of provinces other than Assam reserved representation in the provincial and Federal Legislatures (House of the People) in proportion to the total tribal population of the Province is recommended by joint electorate. In the case of Assam similar reservation of representation for the plains tribals (excluding tea-garden labour) is recommended. In the case of the hill districts, in view of their small and exclusive populations it is recommended that representation should be provided in proportion to the population but in such a way that all fractions of a lakh are taken as one lakh even though this might involve a small weightage. In the Federal Legislature (House of the People) the autonomous hill districts should have a representative. The plains tribals should have representation in the House of the People also on the basis of their population. In all cases election by adult franchise is recommended and indirect election or nomination should not be resorted to. These should be special representation as follows:—

- Laccadive Group—1.
- Amindivi Group—1.
- Minicoy Island—1.
- Lahaul & Spiti—1.

(para. 9 of Interim Report of Other Than Assam Sub-Committee and para. 21 of Assam Sub-Committee Report; see also para. 6 of Joint Report).

Non-tribals will not be eligible for elections from hill constituencies to the provincial legislature except the constituency which includes the municipality of Shillong. [Para. 21(e) and Sec. K(8) of App. A of Assam Report]. Constituencies may not be so made as to extend outside the boundaries of autonomous districts. [Para. 21(d) and Sec. K(3) of App. A, Assam Report].

4. There should be a department under the Federal Government in order to supervise and watch the development of the tribals in the different provinces and to furnish such advice and guidance as may be needed. (Para. 5 of Final Report of Other Than Assam Sub-Committee).

5. The areas inhabited by the tribes are hilly and difficult country, to develop which is likely to be beyond the resources of some Provincial Governments. The Federation should therefore provide the necessary funds for the execution of approved schemes of development. [Para. 17 of Interim Report and Sec. I & K(2) of App. C of Other Than Assam Sub-Committee, also para. 14(c) and Sec. N of App. A of Assam Sub-Committee Report]. In the case of Assam, the Federation should also meet the average deficit of the autonomous districts during the three years preceding the commencement of the Constitution. [Para. 14(c) and Sec. N of App. A of Assam Report].

6. The Central Government should also be in a position to require the Provincial Governments to draw up and execute schemes for the scheduled areas. [Para. 17 of Interim Report and Sec. I & K(2) of App. C of the Other Than Assam Sub-Committee].

7. The Federal Government should institute a special commission after ten years to enquire into the progress of the scheduled areas and the tribes. [Para. 16 and Sec. K(1) of App. C of Other Than Assam Sub-Committee Report].

8. In provinces other than Assam, excepting the U. P. and the Punjab, a Tribes Advisory Council containing, to the extent of three-fourths of its membership, elected members of the provincial legislatures is recommended. The Council shall have not less than ten or more than twenty-five members. (Para. 15 and Sec. J of App. C of Other Than Assam Sub-Committee Report). For U. P. and the Punjab an advisory committee containing representatives of the tribal or backward class concerned to the extent of two-thirds is recommended. (Paras. 3 & 4 of Final Report; see also para. 18 of this Summary for details of U. P. Committees). For Assam there is provision for the Governor to appoint either a permanent or an *ad hoc* commission to report or keep the Government in touch with the administration of the autonomous districts. [Para. 24 & Sec. O(1) of App. A of Assam Sub-Committee Report].

9. The hill districts of Assam are to be designated as autonomous districts and special district councils should be set up for each of them. The district councils will have powers of legislation over (a) occupation or use of land other than land comprising reserved forest, (b) the management of forest other than reserved forest, (c) the use of canals and water courses for the purposes of agriculture, (d) control of *jhum* cultivation, (e) establishment of village and town committees and (f) village management in general. Reserved forests will be managed by the Provincial Government. (Paras. 9 to 13 of Assam Sub-Committee Report).

The district council will have powers of management of all institutions which normally come under the scope of local self-government in the plains and will have full control over primary education. (Para. 13 and Sec. E of App. A of Assam Sub-Committee Report).

The district council will also have powers to make its own rules and regulations regarding its own constitution. [Sec. B(5) of App. A of Assam Sub-Committee Report].

The district council will have powers to make laws affecting (a) appointment and succession of Chiefs, (b) inheritance of property councils. [Para. 18 & Sec. B(3) of App. A of Assam Sub-Committee Report].

District councils and regional councils can set up courts with full powers to deal with all civil suits other than those arising out of special laws and offences punishable under the Penal Code with imprisonment of less than five years in accordance with local or tribal custom except where non-tribals are involved. (Para. 12 & Sec. D & F of App. A of Assam Sub-Committee Report).

Where there are different tribes in a district and they wish to manage their own affairs regional councils may be set up. Regional councils have powers limited to their customary law and the management of land, villages and courts. Regional councils may delegate their powers to district councils. [Para. 18 & Sec. B(3) of App. A of Assam Sub-Committee Report].

The district and regional councils (Assam Hill Districts) will have powers to levy land revenue, house tax or poll tax and other taxes levied by local self-governing Institutions in the plains. [Para. 14(a) & Sec. H of App. A of Assam Sub-Committee Report]. They should be assisted by provincial grants where necessary. [Para. 14(d) of Assam Report].

The District or Sub-divisional officer, as the case may be, will be *ex-officio* President of the district council of the Mikir and North Cachar Hills.

10. The district council shall be an elected body with not less than 20 or more than 40 members of whom not less than three-fourths shall be elected by universal adult franchise. Separate constituencies to be formed for separate tribes, with a population of not less than 500. Non-tribal residents of autonomous districts, if their population is not below 500, may be formed into a separate constituency for election to the district council. [Para. 27 and Sec. B(1) & (2) of App. A of Assam Report].

11. In matters relating to land (provinces other than Assam), social customs and village management, if the Tribes Advisory Council advises that any law passed by the provincial legislature should not be applied to a scheduled area the Provincial Government shall direct accordingly. The Provincial Government shall have powers to direct that any other legislation shall not apply to the scheduled areas on the advice of the Council. (Paras. 9 & 10 and Sec. E of App. C of Other Than Assam Sub-Committee Report).

In the case of Assam legislation on these matters is left to the district council and provincial laws will not apply unless the district council applies them with or without modifications. Legislation prohibiting the consumption of non-distilled liquors will also not apply unless the district council applies it. (Para. 17 & Sec. L of App. A of Assam Sub-Committee Report).

12. If the Tribes Advisory Council so advises, moneylenders in scheduled areas should not be permitted to carry on business except under a licence. (Para. 26 & Sec. G of App. C of Other Than Assam Sub-Committee Interim Report).

In Assam the district council should have powers to take action to license moneylenders and non-tribal traders if the rules are approved by a majority of three-fourths of their members; this is to prevent the practice of these professions by non-tribals in a manner detrimental to the interests of tribals. (Para. 15 and Sec. J of App. A of Assam Sub-Committee Report).

13. Allotment of waste land in a scheduled area should not be made to non-aboriginals except in accordance with rules made by the Provincial Government in consultation with the Tribes Advisory Council. (Para. 25 and Sec. F of App. C of Other Than Assam Sub-Committee Report).

14. Mineral resources in the autonomous districts of Assam will be managed by the Provincial Government but the district councils will be entitled to a share of the revenue. Licences or leases shall not be given out except in consultation with the district council. (Para. 16 and Sec. I of App. A of Assam Report).

15. The Governor of Assam should be empowered to set aside any act or resolution of a district council if the safety of the country is prejudiced; he should also have powers to dissolve a council if gross mismanagement is reported by the commission. (Para. 19 and Sec. Q & R of App. A of Assam Sub-Committee Report).

In provinces other than Assam the Governor should have the special responsibility to see that schemes of development are drawn up and implemented. This should be enjoined on him by instructions. (Para. 18 of Other Than Assam Report).

16. The Central Government should continue to administer the frontier tracts and tribal area with the Government of Assam as its agent until administration has been satisfactorily established over a sufficiently wide area. Areas over which administration has been satisfactorily established may be taken over with the approval of the Federal Government. [Sec. P of App. A and Para. 20(a) of Assam Sub-Committee Report].

Provincial Governments (other than Assam) should have powers to make special regulations for the trial of petty criminal and civil cases in scheduled areas, with a view to simplify procedure. (Sec. M of App. A of Other Than Assam Report).

17. The estimated revenue and expenditure pertaining to a scheduled area or an autonomous district should be shown separately in the provincial budget. [Para. 18 & Sec. H of App. C of Other Than Assam Sub-Committee Report and para. 14(b) and Sec. M of App. A of Assam Sub-Committee Report].

18. There shall be a separate Minister for tribal welfare in the C. P., Orissa and Bihar. (Para. 20 & Sec. L of App. C of Other Than Assam Sub-Committee Report). In Assam representation for the hill people in the Ministry should be guaranteed by statutory provision if possible or at least by a suitable instruction in the Instrument of Instructions. [Para. 22; see also Sec. O(3) of App. A of Assam Sub-Committee Report].

19. For the partially excluded areas of the U. P. an advisory committee consisting of tribals or backward people to the extent of two-thirds of its membership, provision to prevent the transfer of land from the aboriginals to non-aboriginals, (except with special permission) for regulations for the trial of petty civil and criminal cases by simple procedure, is recommended. The revenue and expenditure of the area should be shown separately in the provincial budget and there should be a seat reserved in the provincial assembly for a tribal from the partially excluded area of the

Mirzapur District. There should also be provision for the Federal Government to call for reports from the Provincial Government regarding the administration of the areas.

Parallel provisions are recommended for Spiti & Lahoul (E. Punjab) which should have one seat in the provincial legislature. (Paras. 3 & 4 of Final Report of Other Than Assam Sub-Committee).

II

OTHER RECOMMENDATIONS

20. Tribal panchayats should be encouraged wherever possible. (Para. 22 of Interim Report of Other Than Assam Sub-Committee). Shifting cultivation should be discouraged. (Para. 23 of Interim Report of Other Than Assam Sub-Committee & para. 11 of Assam Sub-Committee Report). Temperance propaganda should be carried on as part of tribal welfare work. (Para. 24 of Other Than Assam Sub-Committee Report).

21. Tribals should be recruited in due proportion to all Government services. Non-tribals posted to tribal areas should be selected with care. (Para. 25 of Assam Report and para. 21 of Other Than Assam Report).

Special attention should be paid to the recruitment of tribes to the Armed Forces of India. (Para. 6 of Final Report of Other Than Assam Sub-Committee).

22. The abolition of the powers of Supurdars (Dudhi area of Mirzapur District, U.P.) to accept surrender and make a reallocation of land is recommended. The system of Sayanas in Jaunsar Bawar (U. P.) should be abolished and revenue collected through officials.

23. A general review of the powers and functions of ancient systems of village or tribal headmen should be undertaken with a view to removing the grievances of tribals and the abolition of oppressive powers and general reform. (Para. 7 of Final Report of Other Than Assam Sub-Committee).

24. Provincial Governments should utilise the services of approval non-official organisations doing welfare work among the tribals, with a view to adding to the volume of development work, by giving them grants-in-aid. (Para. 8 of Final Report of Other Than Assam Sub-Committee).

25. It should be made compulsory for officials posted to aboriginal tracts to obtain a working knowledge of the local language within a reasonable period.

26. Posa payments to the frontier tribes should be continued. [Para. 20(c) of Assam Sub-Committee Report].

The pace of extending administration in the frontier tracts should be greatly accelerated and additional officers appointed where necessary. [Para. 20(a) of Assam Sub-Committee Report].

The Provincial Government should undertake an examination of the position in the frontier tracts with a view to taking a decision whether any portion could be taken immediately by it under provincial administration. [Para. 20(b) of Assam Sub-Committee Report].

NOTE.—The contents of Appendix A of the Assam Report (p. 19) and of Appendix C (p. 33) of this volume must be studied for a full picture of the constitutional provisions recommended. See also pages 30—32 for Schedule of tribes.

REPORT OF THE COMMITTEE TO RECOMMEND SUITABLE CONSTITUTIONAL CHANGES IN THE ADMINISTRATIVE SYSTEMS OF CHIEF COMMISSIONERS' PROVINCES.

COUNCIL HOUSE,
New Delhi, the 21st October, 1947.

To

THE PRESIDENT,
CONSTITUENT ASSEMBLY OF INDIA,
NEW DELHI.

DEAR SIR,

We, the members of the Committee appointed by you in accordance with the motion adopted by the Constituent Assembly on the 30th July, 1947, for the purpose of recommending constitutional changes in the five Centrally administered areas, viz., Panth Piploda, Andaman and Nicobar Islands, Coorg, Ajmer-Merwara and Delhi, submit this our report and the annexure thereto. We have adopted broadly the principles of responsible government as the basis of the constitution for the three last mentioned provinces. We have, however, made some modifications in the provisions adopted by the Assembly in respect of the Major Provinces. Before formulating our proposals we fully considered the position of these provinces with respect to their geography, financial condition and the working of the existing system of government in these areas.

2. Panth Piploda is a small tract of territory consisting of only 10½ villages situated in Malwa in the Central India Agency. In view of its small size and isolated position we have recommended that it should form part of the province of Ajmer-Merwara. This step was also suggested by some influential citizens of Panth Piploda. As regards the group of islands in the Bay of Bengal known as the Andaman and Nicobar Islands which have ceased to be penal settlements, we recommend that they should continue to be administered by the Government of India as at present with such adjustments in their administrative machinery as may be deemed necessary.

3. Before recommending any constitutional changes for the three Chief Commissioners' Provinces of Coorg, Ajmer-Merwara and Delhi which we propose to designate as Lieutenant Governors' Provinces, we took into account the following considerations:—

- (a) that the Centre must have a special responsibility for the good government and the financial solvency of these provinces ;
- (b) that on account of the smallness of these areas and the scantiness of their resources, the need for Central assistance will continue for pulling up the standard of their administration to the level in the major provinces.

Among the important decisions taken by us are:—

- (1) Each of these three provinces should henceforth function under a Lieutenant Governor to be appointed by the President of the Indian Federation.

- (2) Each of these provinces should normally be administered by a Council of Ministers responsible to the legislature as in other provinces, but any difference on an important matter arising between the Lieutenant Governor and the Ministry should be referred to the President of the Federation for final decision.
- (3) Each of these provinces should have an elected legislature which should function like other provincial legislatures except that—
- (a) the Federal Legislature will in the case of these provinces. have concurrent power of legislation even in respect of the subjects included in the Provincial Legislative List ;
 - (b) all laws passed by the provincial legislature shall require the assent of the President of the Federation ;
 - (c) the budget of the province after being voted by the provincial legislature shall require the approval of the President of the Federation before it becomes operative.
4. We are fully alive to the circumstances which led to the formation of the Delhi province in 1912. We also recognize the special importance of Delhi as the Capital of the Federation. We are, however, of the opinion that the people of the province which contains the Metropolis of India should not be deprived of the right of self-government enjoyed by the rest of their countrymen living in the smallest of villages. We have, accordingly, placed the Delhi Province on a par with Ajmer-Merwara and Coorg and have recommended responsible Government subject to the limitations already indicated. Our detailed recommendations are given in the annexure.

Yours sincerely,

B. PATTABHI SITARAMYYA

(Chairman)

N. GOPALASWAMY AYYANGAR

DESHBANDHU GUPTA

K. SANTHANAM

C. M. POONACHA

MUKAT BEHARI LAL BHARGAVA

Members of the Committee.

ANNEXURE

Lieutenant Governors' Provinces

1. Delhi, Ajmer-Merwara including Panth Piploda, Coorg and such other provinces as may be so designated shall be Lieutenant Governors' Provinces.

The Provincial Executive

2. In each Province there shall be a Lieutenant Governor who shall be appointed by the President of the Federation.

3. The provisions of the Constitution Act relating to the term of office, qualification for appointment, eligibility for re-appointment, conditions of office, declaration before entering office by the Governor shall as far as possible be applicable in the case of the Lieutenant Governor. He may be removed from office by the President on grounds upon which a Governor may be impeached.

4. (i) The executive authority of the Province shall be vested in the Lieutenant Governor and may be exercised by him either directly or through persons acting under his authority.

(ii) The power to suspend, remit or to commute the sentence of any person convicted of any offence shall be vested in the Lieutenant Governor as in the case of major provinces.

(iii) Nothing in this section shall prevent the President of the Federation or the Provincial Legislature from delegating functions to subordinate authorities.

Administration of Provincial Affairs

5. (i) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion. The number of ministers shall not exceed three except with the approval of the President of the Federation.

(ii) In case of difference of opinion between the Lieutenant Governor and his ministers on any issue which he considers important, he may refer the matter to the President of the Federation, whose decision shall be final and binding upon the Province.

6. The provisions of the Constitution Act relating to the appointment, dismissal and with respect to the determination of the salaries of the ministers in the Governors' Provinces shall, as far as possible, be applicable in the case of Lieutenant Governors' Provinces.

Legislative

7. There shall for each of the Lieutenant Governor's Province be a Legislature, consisting of a single Chamber to be known as the Legislative Assembly. It shall be composed of members chosen by direct election.

8. The term of office of the elected members of the Assembly, the basis of franchise and other general provisions shall be on the lines as provided in the Constitution Act for Governors' Provinces except that the representation of the different territorial constituencies in the Assembly shall be on a scale of not more than one representative for every 5,000 persons subject to a maximum of 33 for Coorg, 15,000 subject to a maximum of 40 in the case of Ajmer-Merwara including Panth Piploda and 20,000 subject to a maximum of 50 in the case of Delhi.

9. The Provincial Assembly shall not have the power to make laws for federal subjects ; and the subjects included in both the provincial and concurrent lists in the new constitution, will be treated as concurrent in respect of these minor provinces. Laws made by the federal legislature for these provinces in respect of any of these subjects shall prevail over laws passed by the Provincial Assembly in so far as the latter are inconsistent with the Federal laws.

10. Laws passed by the Provincial Assembly shall require the assent of the President of the Federation.

11. The provisions of the Constitution Act relating to prorogation and dissolution of the legislature, the right of the Governor to address and send messages, election of members as Officers of the legislature and fixation of their salaries in Governors' Provinces shall apply *mutatis mutandis* in the case of Lieutenant Governors' Provinces.

12. The Provisions of the Constitution Act relating to the making of declaration by members, vacation of seats, disqualifications of members, their privileges and immunities, salaries and allowances, in the Provincial Legislatures shall as far as possible be applicable in the Lieutenant Governors' Provinces.

13. The provisions of the Constitution Act relating to language to be used in the Provincial Legislature shall as far as possible be applicable in the case of these Provinces.

Administrative Breakdown

14. If at any time the President of the Federation is satisfied that the government of the Province cannot be carried on in accordance with these provisions, he should have power to supersede these arrangements, take the administration into his own hands and make such other provision for conducting it as he may consider necessary. The exercise of this power will be subject to the usual provisions relating to report to and control by the Federal Legislature in the case of emergencies in a Governor's Province.

Judiciary

15. (i) In the case of Coorg, the powers of a High Court shall be exercised by the Madras High Court.

(ii) For Delhi and Ajmer-Merwara there shall be a High Court established in Delhi having original as well as appellate jurisdiction over both the provinces. The constitution of this High Court, the appointment of judges and their salaries, its jurisdiction and administrative functions shall be governed by the provisions of the Constitution Act applicable to the High Courts.

Provincial Services

16. (i) For higher appointments provision shall be made in the recruitment of All India Administrative Services for meeting the requirements of these three provinces.

(ii) Provision shall be made for transfers *inter se* of service personnel recruited in the above manner in these three provinces.

Representation in the Federal Legislature

17. Notwithstanding anything to the contrary in the Union Constitution regarding the basis of representation for the Houses of Federal

Legislature, each of these three Minor Provinces should be treated as a unit of the Federation for purposes of representation in the two Houses of the Federal Legislature.

Chief Commissioners' Provinces

18. (i) Andaman and Nicobar Islands and such other areas as may be so designated shall be the Chief Commissioners' Provinces.

(ii) The Andaman and Nicobar Islands shall continue to be administered as at present with such adjustments in the administrative machinery as may be deemed necessary.

Additional Note by Shri Mukat Behari Lal Bhargava and Shri C. M. Poonacha, to the Chief Commissioners' Provinces Constitution Committee Report.

We, the members representing Ajmer-Merwara and Coorg having signed the report find it necessary to append this additional note regarding the future of these two provinces.

The special problems arising out of the smallness of area, geographical position, scantiness of resources attended with, what may be called administrative difficulties of many a complex nature may, at no distant future, necessitate the joining of each of these areas with a contiguous unit. Therefore, we feel that a specific provision should be made in this chapter of the constitution to make possible such a union after ascertaining the wishes of the people of these areas. No doubt, our attention was drawn to clause 3 of the Union Constitution Committee Report, which is yet to be adopted by the Constituent Assembly, wherein certain provisions relating to the creation of a province, altering the boundaries of a province, etc., are embodied. But after careful examination we feel that the proposed clause 3 of the Union Constitution Committee Report is of a very restrictive nature and does not in specific terms contemplate the inclusion of an Indian Province or areas with a State or Group of States. Taking into account the situation of Ajmer-Merwara which is surrounded on all sides by Rajputana States such a clause would perpetually leave Ajmer-Merwara in isolation even though the people of Ajmer-Merwara may at any time decide against it. Accordingly we press upon the Constituent Assembly the urgency of incorporating a suitable provision in this chapter of the Constitution so as to make it possible for each of these areas to join a contiguous unit.

REPORT OF THE EXPERT COMMITTEE ON THE FINANCIAL
PROVISIONS OF UNION CONSTITUTION

COUNCIL HOUSE,
NEW DELHI,
December 5, 1947.

To

THE SECRETARY,
CONSTITUENT ASSEMBLY OF INDIA,
COUNCIL HOUSE,
NEW DELHI.

Expert Committee on Financial Provisions

Sir,

I have the honour to forward herewith the Report of the Expert Committee on Financial Provisions of the Union Constitution for submission to the Hon'ble the President.

I have the honour to be,
Sir,
Your most obedient servant,
M. V. RANGACHARI,
Member-Secretary.



REPORT

Terms of Reference

We were appointed by the President of the Constituent Assembly to examine and report on the Financial Provisions of the Constitution Act with the following terms of reference:—

I. To examine, with the aid of the memoranda on the distribution of revenue between the Centre and the Provinces sent by the Government of India and the Provinces, the existing provisions relating to finance and borrowing powers in the Government of India Act, 1935, and their working during the last ten years and to make recommendations as to the entries in the lists and sections to be embodied in the new Constitution.

The following points shall, in particular, be kept in view in making the recommendations:—

- (a) How are taxes to be allocated between the Centre and the Units as regards legislation, levy and collection?
- (b) Which are the Federal taxes—
 - (i) whose net proceeds are to be retained entirely by the Centre;
 - (ii) whose net proceeds are to be entirely made over to Units;
 - (iii) whose net proceeds are to be shared between the Centre and the Units?
- (c) On what principles the taxes mentioned in (b) (iii) are to be shared between the Centre and the Units?
- (d) What is to be the machinery for determining the shares: *e.g.*, whether a Financial Commission should be appointed immediately after the enactment of the Constitution to report on the principles of sharing and their application to be brought into effect when the Constitution comes into force; and whether the same or a similar Commission should review these principles and their concrete application periodically, say, once in five years?

II. What should be the principles on which Federal grants should be made to the Units in future? What should be the machinery for the determination of such grants: could the same Financial Commission as is referred to in I(d) above act as the machinery for this purpose also, or should it be a different one?

III. How could the Indian States be fitted into this general system as far as possible on the same terms as Provinces? Should a time lag be provided for their being so fitted in?

IV. On the assumption of financial responsibility for Defence, Foreign Affairs and Communications on behalf of the Indian States under arrangements for accession to the Federation, what special financial arrangements, if any, are necessary between the acceding States and the Federation?

V. Should the existing rights of the Indian States as to Federal taxes now levied by them be acquired on payment of compensation?

VI. How far is it feasible, on the centralization of all customs levied at the Federal frontiers, to permit Indian States affected by such centralization to retain such portion of the customs so levied at their frontiers as might be attributed to consumption in the States, etc.? [A review of the existing agreements between the Centre and certain important Indian States as regards maritime customs, excises etc. may be of value in this connection.]

VII. Some Provinces have claimed a larger percentage of the income-tax to be made over to them than under the existing system. Does this claim merit consideration; if so, to what extent?

VIII. A suggestion has been made that the Centre should be allocated only the excises on specified commodities, the rest of the field of excise being left to the Provinces to tap according to their needs. Would this be possible without any material detriment to Federal revenue?

IX. On the basis that the residuary powers are vested in the Centre in the new Constitution so far as the Provinces are concerned, and in the States so far as the States are concerned, is it necessary that any additional specific taxes should be entered in the Provincial List, and if so, what?

X. Is it necessary to make any modifications in the existing provisions as regards procedure in financial matters contained in Sections 33 to 37 and 78 to 83 of the Government of India Act, 1935?

XI. A large number of Indian States at present derive substantial revenues from land customs levied at the frontiers between their limits and those of neighbouring States or Provinces. One of the fundamental rights already adopted by the Constituent Assembly is to remove all internal barriers in regard to trade between Unit and Unit. Could these land customs be done away with either immediately or over a period of years, and if so, should any prejudice caused thereby to the finances of particular States be compensated and in what manner?

[The Committee should kindly indicate clearly which of its recommendations should go into the body of the Constitution and which should be provided for by Federal law.]

Prefatory Remarks

2. We began our work on the 17th November and have been sitting continuously. We have received memoranda from the various Provincial Governments setting out their claims for larger resources as well as their points of view in connection therewith. We have also received a memorandum from the Ministry of Finance of the Central Government giving a picture of the financial position of the Centre in the near future. The Secretariat of the Constituent Assembly has collected for us information on various matters relating to the States, and also helpful information regarding other Federations. It has also prepared a draft of the sections which come within our terms of reference; and this has considerably helped us in our work. We are indebted for all these memoranda, information and drafts. We are also indebted to some of the Provincial authorities who appeared before us in person and discussed with us informally the questions arising out of the memoranda presented by their Governments. We availed ourselves also of the specialised knowledge and experience of not only some of the officials of the Central Secretariat, but of some members of the Constituent Assembly and others who have unique knowledge

of some of the problems under our consideration. All our discussions, however, were free and informal; and we did not, therefore, record any evidence, apart from the memoranda placed before us.

3. In particular, the other two of us would like to place on record our grateful appreciation of the assistance we have received from our colleague and Secretary Mr. Rangachari, who amidst his exacting, multifarious duties, including the preparation of the interim budget, not only found time regularly to attend our meetings, but also placed his wide knowledge and experience at our disposal, and arranged to secure at short notice most of the available information required by us. We should also like to thank Mr. B. Das Gupta of the West Bengal Government Secretariat for the intelligent and extremely well informed assistance he gave us. We are also indebted to Mr. Mukerjee, Joint Secretary, of the Constituent Assembly, for his help throughout our sittings and in particular for putting our recommendations in the shape of draft amendments to the Constitution.

4. Our terms of reference may be divided broadly into the four following groups:

- (1) Relations between the Centre and the Units, and between the Units *inter se*;
- (2) Financial procedure, i.e., relating to the budget, expenditure and money Bills;
- (3) Borrowing powers of Units; and
- (4) Relations of the Union with the States.

We have accordingly, for convenience, regrouped our terms of reference as follows:

- (1) I, VII, VIII, IX, II
- (2) X
- (3) I
- (4) III, IV, V, VI, XI

and discussed them, as far as possible, in the above order.

Brief History of Financial Relations

5. Before dealing with the working of the financial arrangements in the Government of India Act, 1935, it is necessary to give a brief account of the earlier arrangements so that we can have a correct picture of the problems before us.

6. The period before the passing of the Government of India Act, 1935, falls into two well-defined parts, namely, the period ending with the 31st March, 1921, i.e., before the operation of the Government of India Act, 1919, and the period covered by that Act.

7. The process of financial development in this country has been one of evolution from a unitary to a quasi-federal type. The Government of India started as a completely unitary Government in entire control of the revenues of the country with the Provincial Governments depending on the Central Government for all their requirements. In the earlier years, Provincial Governments were given fixed grants for meeting the expenditure on specific services, and the first step in making specific sources available to them was taken when the Provincial Governments were given the whole or part of certain heads of revenue like Forest, Excise,

Licence Fees (later to develop into Income-tax), Stamps, Registration, Provincial Rates, Law and Justice, Public Works, Education, etc. The funds released by this allocation were not adequate for the requirements of the Provinces and had to be supplemented, mainly by sharing with them in varying proportions the main source of Central revenue, namely, Land Revenue, and partly by making to them additional cash assignments. In 1904, the settlements with the Provinces were made quasi-permanent, thereby making the Provinces less dependent on the fluctuating grants from the Centre. This method of financing the Provinces was examined more than once and retained as the best suited to the then circumstances.

8. The Government of India Act, 1919, which, among other things, aimed at giving a reasonable measure of autonomy to the Provinces as the first step in the process of self-government, made the first clear-cut allocation of resources between the Centre and the Provinces without having any divided heads between them. Under this Act, certain specific heads were given wholly to the Provinces and the remaining sources were retained by the Centre. Thus among the principal heads of revenue, Land Revenue, Excise and Stamps were given to the Provinces, while the Centre retained Customs, Income-tax, Salt and Opium. Of the three great Commercial departments of Government, Railways and Posts and Telegraphs were retained by the Centre, while irrigation was handed over to the Provinces.

9 This allocation of resources between the Centre and the Units, particularly the assignment of the whole of Land Revenue to the Provinces, left the Central budget in a substantial deficit; and in the earlier years of this scheme, the Centre had to depend on the Provinces for contributions for balancing its budget. These contributions were fixed by what is commonly known as the Meston Award, and were designed to produce for the Centre an estimated shortfall of Rs. 9.8 crores resulting from the rearrangement of resources between the Centre and the Provinces. The contributions ranged from Rs. 348 lakhs from Madras to Rs. 15 lakhs from Assam, while one Province, namely, Bihar and Orissa, had to make no contribution at all. It is unnecessary for the present purpose to describe in detail the method by which these contributions were fixed. It is enough to mention that they became a source of constant friction between the Centre and the Provinces; and when substantial Provincial deficits occurred, an unceasing clamour developed for their withdrawal. Between 1925 and 1928 these contributions were partially remitted and they were completely extinguished in 1929.

10. The experience of the years under the 1919 Act clearly showed that the sources of revenue allocated to the Provinces were inelastic, and were insufficient to meet the increasing requirements of the Provinces for their expanding needs for nation building services such as Education, Medical Relief, Public Health etc., which fell almost wholly in the Provincial field. It was clear that some additional revenue heads had to be released to the Provinces; and while the Government of India Act, 1935, did not make any radical change in the allocation of heads between the Centre and the Units, it revived in a somewhat modified form the earlier principle of dividing the proceeds of certain Central heads, the two heads concerned being Customs and Taxes on Income. The Act also provided for the grant of fixed subventions to some of the smaller Provinces, and gave the Centre power to raise Excise and Export duties for distribution among the Provinces and federating States. After an enquiry into the relative needs of the Centre and the Provinces by Sir Otto Niemeyer, the Provincial shares in the divided heads of Central revenue and the subventions to some

of the Provinces were fixed by an Order-in-Council, which, subject to a modification during the war, continued till 15th August, 1947.

Present Constitutional Position

11. Under the Government of India Act, 1935, which is the starting point of our enquiry, the taxing jurisdiction of the Central and Provincial Legislatures are entirely separate. But, while the Provinces retain the whole of the net proceeds of all taxes levied by them, the Central Government has to give away either in part or in whole the net proceeds of some of the taxes levied by it.

12. The taxes, the net proceeds of which are to be given away wholly to the Provinces, if levied, are—

- (1) Federal Estate and Succession duties,
- (2) Federal Stamp duties,
- (3) Terminal Taxes on goods and passengers carried by Railway or Air,
- (4) Taxes on Railway fares and freights.

The Centre can levy a surcharge on those taxes entirely for its own purpose. None of these taxes has in fact been levied, except that the Federal Stamp duties continue to be levied under the old laws, the duties however being collected and retained by the Provinces.

13. The Federal Taxes, the net proceeds of which are to be shared with the Provinces, fall into two groups:—

- (1) taxes, the sharing of the net proceeds of which has been made obligatory by the Constitution *viz.*, income-tax and jute export duty;
- (2) taxes, the sharing of the net proceeds of which has been left to be determined by the Federal Legislature *viz.*, Central Excises including duty on salt, and export duties except on jute and jute products. The Central Legislature has levied certain taxes under these heads, but has not provided for giving any share to the Provinces.

14. Besides providing for giving away the net proceeds of taxes in whole or in part to the Provinces, the Constitution also provides for fixed grants-in-aid to some Provinces.

15. There is also a general provision for giving grants to Provinces at the discretion of the Central Government either for general or specific purposes.

16. Two tables showing the Constitutional position in respect of the revenues of the Federal and Provincial Governments respectively under the Government of India Act, 1935, will be found in Appendix I. We are indebted to Mr. Ayyangar's commentary on the Government of India Act, 1935, for these tables.

Review of Finances of Provinces and the Centre

17. Two tables giving the financial position of the Provinces and the Centre during the years 1937-38 to 1946-47 are set out in Appendix II. In considering the working of the existing arrangements during the last decade, the most important point to note is that war broke out soon after the Government of India Act, 1935, came into operation.

18. During the war, all Provinces except Bengal and Assam had surplus budgets. Revenue receipts increased several times, mainly on account of wartime conditions and also because the Provinces levied a number of new taxes and increased the rates of existing ones; there were remarkable increases in receipts under Provincial, i.e., Liquor and Drugs, Excises, and in the Provincial share of Income-tax. Most Provinces were under Section 93 administration. All development work was stopped. The Provinces are now faced with a heavy programme of expenditure without any corresponding increase in revenue. On the contrary, even apart from voluntary abandonment of revenue as in the case of Liquor Excises, the revenue is likely to go down much below wartime levels. Land revenue, both in the permanently and temporarily settled provinces, is not likely to expand. State purchase of zamindari will not bring any return for years to come. In ryotwari Provinces, remissions are likely to be more liberal than before, and there is thus little prospect of an increase in land revenue. Receipts from stamps and registration fees are not likely to increase much, while forest revenue will perhaps dwindle on account of large scale felling during the war. Receipts from sales tax, electricity tax and entertainment tax may not fall, though they will be below the war-time peak for some time to come.

19. During the war and after, most of the Provincial Governments have practically exhausted the entire field of taxation reserved for them. Moreover, Provincial Governments have to share the Provincial field with Local Bodies, and on that account too, need adequate resources. A substantial transfer of revenues from the Centre to the Provinces, therefore, seems inevitable, if essential and overdue programmes of social service and economic development have to be undertaken.

20. At this stage, we would refer to the adoption, by most Provincial Governments, of a prohibitionist policy; and of the inevitable loss of substantial revenue by all of them. Obviously, it is for the provinces to find alternative provincial resources from which to recoup the loss; and in any case, it would not be practicable for provinces to expect sufficient assistance from the Centre for this purpose, at any rate for many years. The point that we wish to emphasise is that it will be for the Provincial Governments to balance the urgency of schemes of development against the advisability of social reforms like prohibition, and that in any case, they must not embark on schemes, whether of reform or development, depending merely on the possibility of obtaining assistance automatically from the Centre.

21. To turn now to the Centre, it has been working on deficit budgets. The large surpluses that were expected some time ago have not been, and are not likely to be, realised, mainly because of the food shortage, the refugee problem and other causes arising out of the partition of the country, particularly, continued heavy expenditure on Defence. These are, however, temporary problems, and we consider that the financial position of the Centre is essentially sound. As these temporary problems are solved, the budgetary position of the Centre will necessarily get better. There is scope for improvement in the administration of Central taxes, and particularly of taxes on income. In respect of taxes on income, it should be possible for the Centre not only to collect more in future in the ordinary course every year but to secure for the exchequer, by legislative changes, if necessary, the large sums that are believed to have been successfully kept back from the Government in recent years. We do not, however, expect any appreciable change under Customs and Excise; and we do not expect Railway contributions on anything like the scale during the war. Even after the temporary

problems referred to above have been solved, expenditure on Defence and Foreign Affairs would still be substantial. The Defence Services will probably be reorganised and re-equipped, and it is not possible to foresee what would be the scale of expenditure for properly equipped defence services even on a peace-time basis. There is little prospect on the other hand of reduction in the service of the national debt but there is, however, scope for reduction in the existing civil expenditure.

22 The problem before us is how to transfer from the Centre to the Provinces, sufficient amount which, while not placing too great a strain on the Centre, would provide adequate resources for the inauguration of useful schemes of welfare and development by the Provinces. While the Centre, on its present basis, may not be in a position to part with substantial sums, we feel that with the resolution of its temporary difficulties and improvement in its tax administration, together with the levy and collection of taxes evaded in the past, it can with no serious risk to its own budget part with sizable sums every year. We are suggesting later in detail how these sums should be regulated. We have already referred to the need for Provinces having clear priorities as between contending demands for money, and we have no doubt that the Provinces will in the earlier years utilise the additional resources now placed at their disposal by concentrating on schemes that would add to the productive capacity of the country and consequently the income of the people and thus enable the provinces to embark on further schemes of reform and development.

Claims of Provinces

23. Every Province has drawn pointed attention to the urgency of its programmes of social service and economic development and to the limited nature of its own resources, both existing and potential, and all of them have asked for substantial transfer of revenues from the Central sources. A summary of the detailed suggestions made by them, which vary considerably, is set out in Appendix III.

24. On the question of apportionment of income-tax among Provinces also, the provinces differ widely in their views. Bombay and West Bengal support the basis of collection or residence, the United Provinces that of population, and Bihar a combined basis of population and origin (place of accrual); Orissa and Assam want weightage for backwardness. East Punjab, while suggesting no basis, wants her deficit of Rs. 3 crores somehow to be met.

25. In the case of excise taxes, the bases suggested are production, collection, consumption and population, while Assam suggests some weightage for its low level of revenue and expenditure. Assam has further pressed for special treatment of excises on wasting assets, e.g., the petroleum raised in Assam. Assam also wants a share of the export duty on tea.

General Observations

26. Before we proceed further we would make a few general observations.

India has a federal form of Government, and every federation is based on a division of authority and involves a certain amount of compromise. In this country, federation has been the result of gradual devolution of authority. It has not come into existence through agreements among sovereign States as in some other federations.

27. What we have to do is to distribute the total available resources among Federal and Provincial Governments in adequate relation to the functions imposed on each; so, however, that the arrangements are not only equitable in themselves and in the interests of the country as a whole but are also administratively feasible. We have also to ensure that there is not too violent a departure from the *status quo*, and also to see that while we have as much uniformity as possible, weak Units are helped at least to maintain certain minimum standards of services.

28. The basic functions of a Federal Government are Defence, Foreign Affairs and the service of the bulk of the national debt, and they are all expensive functions, particularly in the light of the limited resources of the country. The head "Communications" would ordinarily at least pay for itself. The Federal Government may also have to assume leadership in the co-ordination and development of research and higher technical education. Normally, however, apart from war or large scale internal disorder, the expenditure of the Centre should be comparatively stable. The needs of the Provinces are in contrast, almost unlimited, particularly in relation to welfare services and general development. If these services, on which the improvement of human well-being and increase of the country's productive capacity so much depend, are to be properly planned and executed, it is necessary to place at the disposal of Provincial Governments adequate resources of their own, without their having to depend on the variable munificence or affluence of the Centre. The Provinces must, therefore, have as many independent sources of revenue as possible. On the other hand, it is not practicable to augment their revenues to any considerable extent by adding more subjects to the Provincial Legislative List, without simultaneously upsetting the equilibrium of the Centre. We cannot, therefore, avoid divided heads; and what we have to aim at is to have only a few divided heads, well balanced and high-yielding, and to arrange that the shares of the Centre and the Provinces in these heads are adjusted automatically without friction or mutual interference.

29. In this country the lack of sufficient economic and financial statistics and other similar data is a great handicap. Therefore, the allocation of resources has to be made largely on the basis of a broad judgment, at any rate until the necessary data become available. We attach great importance to the collection of these statistics and to connected research, and trust that the Government will make the necessary arrangements without delay. In the meantime we have made our recommendations on the best judgment we could give to the exiguous data available.

List of taxes for the Centre and the Units

30. We recommend no major change in the list of taxes in the Federal Legislative List as recommended by the Union Powers Committee. We, however, recommend the substitution of the limit of Rs. 250 for Rs. 50 in clause 200 of the Draft Constitution relating to taxes on professions, trades, callings and employments. We observe from the Draft Constitution that it has been proposed to transfer to the Federal Legislative List stamp duty on transfer of shares and debentures, but we presume that the duties will continue to accrue to the Provinces. In view of the far-reaching effects on public credit and finance of Stock Exchange transactions, we consider that the Centre should have the power to legislate for the regulation of such transactions. If such regulation involves the levy of taxes, we recommend that such taxes should be retained by the Centre except that if the taxes take the form of mere duties on transfers of shares and debentures, the Provinces should have these

duties just like other Stamp duties. We accordingly recommend the entry in the Federal Legislative List of a new item "Stock exchanges and futures market and taxes other than Stamp duties on transactions in them".

31. In the list of taxes in the Provincial Legislative List, we recommend the following changes:—

(1) In entry 43, the words "hearths and windows" may be deleted. Such taxes are not likely to be levied. In any case, they would be covered by the word "buildings".

(2) In entry 53, the word "cesses" should, we think, be replaced by the word "dues".

(3) Similarly, in entry 56, we would substitute the word "taxes" for the word "duties".

(4) In entry 50, we would make the following changes:—

(a) for the word "sale", we would substitute "sale, turnover or purchase", in order to avoid doubt.

(b) We would also add words such as "including taxes in lieu thereof on the use or consumption within the Province, of goods liable to taxes by the Province on sale, turnover or purchase". This addition is suggested in order to prevent avoidance by importing for personal use from outside the province.

32. One of the Provincial Memoranda has suggested that the entry "State Lotteries" should be transferred to the Provincial List, but, as we do not wish to encourage State Lotteries, we should prefer the subject to remain Central where, too, we hope, it will not be used.

Shares in certain taxes

33. We have no new items to suggest for insertion in the Provincial Legislative List.

34. The Federal Government will levy and collect all the taxes in the Federal Legislative List. But, according to our recommendations in the following paragraphs the Centre will retain the whole of the net proceeds of the following taxes only, viz.:—

(1) Duties of customs, including export duties.

(2) Taxes on capital value of assets and taxes on the capital of Companies.

(3) Taxes on Railway fares and freights.

35. At present, the Central Government shares the net proceeds of the Jute Export duties with the jute-growing Provinces and has to hand over to the Provinces the whole of the net proceeds of taxes on railway fares and freights, if levied. As regards the latter, we recommend that, if such taxes are to be levied at all, they should be wholly Central, for we cannot see any difference in substance between such taxes and a straight addition to fares and freights. As regards the former we are of the opinion that as export duties are capable of very limited application and have to be levied with great caution, they are unsuitable for sharing with the Provinces.

36. It is necessary, however, to compensate the Provinces concerned for the loss of this item of revenue, and we recommend that, for a period of 10 years or till the export duties on jute and jute products are abolished, whichever may be earlier, fixed sums as set out below be paid to these Governments as compensation every year.

<i>Province</i>	<i>Amount Rs.</i>
West Bengal	100 lakhs.
Assam	15 „
Bihar	17 „
Orissa	3 „

In arriving at these figures which we have based on the figures of pre-war years, we have taken all relevant circumstances into account, and in particular the concentration of manufacture in West Bengal. If at the end of ten years, which we think should be sufficient to enable the Provinces to develop their resources adequately, the Provinces still need assistance in order to make up for this loss of revenue, it would no doubt be open to them to seek grants-in-aid from the Centre, which would be considered on their merits in the usual course by the Finance Commission.

37. Of the remaining Federal Taxes, we recommend that the net proceeds should be wholly or partly given away to the Provinces as indicated below:

38. *Taxes on Income.*—Under the present arrangement the Provinces receive 50 per cent. of the net proceeds of income-tax, except what is attributable to Chief Commissioners' Provinces and taxes on federal emoluments. The net proceeds of the Corporation Tax are also excluded for the purpose of the sharing. Subject to what we have said in paragraph 49 regarding tax on agricultural income, we recommend that, while the net proceeds attributable to Chief Commissioners' Provinces should be retained wholly by the Centre, the other reservations should go, and that the Provinces should get not less than 60 per cent. of the net proceeds of all income-tax including the net proceeds of Corporation Tax, and taxes on federal emoluments. For the purpose of the division, incometax will mean any levy made under the authority of the entry "Taxes on Income" in the Federal Legislative List.

39. We also consider that over and above its share in the net proceeds retained by it normally, the Centre should be empowered to levy a surcharge whenever conditions require such a levy; obviously such occasions should be rare and not last for unduly long periods.

40. *Central Excise Duties.*—Excise duties are ordinarily closely connected with customs duties and, barring liquor and drug excises, which we consider, should continue to remain Provincial, are inherently not suited for provincial taxation. On the other hand, they are only a species of consumption taxes of which another species namely, sales, turnover and purchase taxes have been the subject of provincial taxation for some time. The Memoranda received by us from the Provincial Governments are almost unanimous in demanding some share under excises; and our problem is to find not only more resources for the units but to make their revenues more balanced. If it was possible to have excises on commodities not subject to Customs duties (whether revenue or protective) or not competing, or capable of competing with, or of substitution for, commodities subject to customs duties, e.g., on rice or wheat or millets or on jute and jute

goods consumed in India, we see no reason why such excises or a share thereof should not be allotted to the units, apart from the general political objection to the division of heads viz., the divorce of benefit from responsibility. But such excises are not likely to be levied. Again, it is obvious that Excise duties on commodities subject to a protective tariff or even a high revenue tariff could not be conveniently shared. In the circumstances, the utmost that we can suggest by way of assistance in this respect to the Provincial Governments is to hand over to them a share of one of the important Central Excises on a commodity not receiving tariff protection viz., Tobacco. Incidentally, the effective administration of this excise requires the active co-operation of Provincial Governments, which would be better forthcoming if they had a share in the tax. We are averse to giving the units a share in too many Central Excises; for, such an arrangement would not only magnify the political objection of benefit without responsibility but lead to administrative inconvenience, since the rates could not be altered except by the consent of all the beneficiaries.

We accordingly recommend that 50 per cent. of the net proceeds of the excise duty on tobacco should not form part of the revenues of the Federation but should be distributed to the Provinces.

41. It will be seen from what has been said above that we are not in favour of the suggestion made in item VIII of the Terms of Reference viz., that the Centre should be allocated only the excises on specified commodities, the rest of the field of excise being left to the Provinces.

42. *Estate and Succession Duties.*—These duties cannot be administered satisfactorily except by or in the closest touch with the income-tax staff; and in any case, if the Centre is to part with a substantial amount of taxes on income and also a part of certain Central excises, it is appropriate that it should get a share of the estate and succession duties. This will also give to the Federal Government a direct interest in the duty. Subject to what we have said in paragraph 49 about taxes on agricultural property, we recommend that not more than 40 per cent. of the net proceeds of such duties should be retained by the Centre.

43. *Federal Stamp Duties.*—We recommend the continuance of the *status quo*, i.e., the legislation in respect of the duties on the specified documents should be Central but Provinces will collect and retain the duties.

44. *Terminal Taxes on goods or passengers carried by railway or air.*—These taxes are not suitable except for purely local purposes, i.e., for the benefit of municipalities, pilgrim funds, etc., but they can be conveniently levied and collected only by the Centre. The existing provisions may stand.

Grants-in-Aid and Subventions

45. Item II of our terms of reference refers to Grants-in-aid.

Assam and Orissa now get fixed subventions of Rs. 30 and Rs. 40 lakhs per annum, respectively. The recommendations that we have made for the increase in the Provincial share of income-tax and the transfer of a share in the excise on tobacco will increase their revenues substantially like those of other Provinces. Even so, however, we have little doubt that these two Provinces will still require fixed subventions on higher scales than at present.

The position of East Punjab is peculiar. Everything there is unsettled, and it will take some time for things to settle down. It is clear, however, that this Province will require a substantial annual subvention for some time to come.

The position of West Bengal is uncertain, and it is not clear how her finances will shape as a result of the partition. The liability that she will have to take over as a result of the partition is not yet known. All told, however, she will perhaps need some temporary assistance.

46. For lack of time and data, we have not been able to assess the subventions required by these four Provinces. We, therefore, recommend that the Central Government should immediately take up the question so that the amounts required by each of these Provinces may be determined in time. The amounts should be subject to periodical review by the Finance Commission to which we refer later.

47. We have suggested elsewhere that till the Finance Commission has been able to recommend a better basis of distribution, a part of the divisible pool of income-tax should be used in order to mitigate hardship in individual cases. This provision also contains an element of grants-in-aid.

48. It is clear that during the developmental stages of the country it will be necessary for the Centre to make specific purpose grants to the Provinces from time to time. The provisions of clause 203 of the Draft Constitution seem to be adequate for the purpose. We have considered the question whether, as in Australia, grants should be made in order to equalise, or at any rate to reduce the disparity between the levels of services and of severity of taxation in the different provinces. There is undoubtedly something attractive in seeking to bring up the backward units at least to 'average' standards, both in effort (severity of taxation) and in performance (standards of services). In Australia, the maximum difference between the levels is said to be of the order of 20 per cent. and the number of unit States is small. In India, on the other hand, as for example in the U. S. A., the difference in the levels is very wide and the number of units larger when acceding States come into the picture. In such a background 'averages' would be mere mathematical concepts totally unrelated to actual facts. On the other hand, even in a Federation of autonomous units, there is a great deal to be said for helping the less prosperous units to come up to the level of the more prosperous ones. As in all such matters, we must take a realistic decision with reference to the conditions in our country. While we do not recommend the adoption in this country of the Australian system, we have no doubt that the Centre, when distributing specific purpose grants under clause 203 of the Draft Constitution, will bear in mind the varying circumstances in the different Provinces.

48A. Section 199 of the Draft Constitution provides for special assistance to Assam in respect of expenditure for promoting the welfare of scheduled tribes in the Province. We agree with this provision. It has been represented to us on behalf of Orissa that a similar provision should be made for assisting her to develop the backward areas of the Province. In the absence of any data, we have been unable to assess the measure of assistance, if any, required by this Province, and we content ourselves with expressing the view that if the Central Government, after a due examination of the question in all its aspects, decide that special assistance is necessary it should be provided on adequate scale.

Taxes on Agricultural Income and Property

49. It is obvious that the taxation of agricultural income by the Provinces, while all other income is taxed by the Centre, stands in the way of a theoretically sound system of income-tax in the country. We should, therefore, have liked to take this opportunity to do away with this segregation. In view of the ease with which the origin of agricultural income can be traced, it could be arranged that the tax from such income, even though

levied and collected by the Centre as part of an integrated system of income-taxes, should be handed back to the Provinces; and it could be further arranged that till such time as the Centre in fact levied a tax on agricultural income, the Provinces already levying this tax might continue to levy it without restriction and with full power to vary the rates of tax. The interests of Provinces could thus be fully protected, and there could, therefore, be no financial objections from them. On the other hand, the present arrangement has the political merit of keeping together in one place both benefit and responsibility, a rather important point, seeing that the Provinces will have full control over but few important heads of revenue. A few provinces have, in fact, levied the tax and are administering it for some time. Perhaps also, the Provinces can administer this particular tax with greater facility than the Centre. For the present, therefore, we have decided to continue the *status quo*, but, in view of the importance of the matter, would recommend that the Provinces should be consulted at once and if a majority, including of course those now levying the tax, agree, tax on agricultural income may be omitted from the Provincial List of subjects, consequential changes being made elsewhere in the Constitution. Our foregoing remarks apply *mutatis mutandis* to Succession and Estate Duties on agricultural property also.

Division of proceeds of Revenue between Provinces

50. *Income-tax*.—As regards the basis of distributing between Provinces the share of proceeds from taxes on income, we are of the opinion that no single basis would lead to equitable results. Origin or *locus* of income is no doubt relevant, but in the complex industrial and commercial structure of modern times, where a single point of control often regulates a vast net-work of transactions, where the raw materials come from one place, are processed in another, manufactured in a third, marketed wholesale in a fourth and ultimately sold in retail over a large area, contracts are made at places different from where they are performed, money is paid in at one place and goods delivered at another and more than one of these stages relate to the same tax-payer the assignment of a share of profits to each stage can only be empirical or arbitrary.

51. Again, the residence of the tax-payer is an important factor, but apart from the artificial legal definition of residence for income-tax purposes, the predominance of joint stock enterprise in business, the dispersion of the shareholders of companies all over the country and even outside, the possibility (emerging from the artificial definition) of simultaneous residence in more than one area, the non-assessment (due to various reasons) of a large number of shareholders, and the absence of authoritative, i.e., tested, information in the income-tax records as to the province of residence of a resident of India (for, today, it is immaterial to the Income-tax Department in which particular Province an assessee is resident), all these together make this criterion of residence a difficult factor to apply in practice in distributing the proceeds of the tax. Even if the statistical difficulties were got over, residence could be changed at the will of the tax-payer.

52. Another possible criterion is the place of collection. This place is usually the principal place of business of the tax-payer, or his residence, if he is not carrying on a business or profession. The objection to this factor is that it is unfair to the areas of origin and sale which it completely ignores, while it gives far too much weight to the place of control of a business, which is usually, though not necessarily, the place of collection. Moreover, even more than in the case of residence, the place of collection can be easily altered at the will of the tax-payer.

53. Another possible basis is that of needs, i.e., the shares would be regulated somewhat like grants-in-aid, and rather than go into elaborate enquiries for this purpose, the population of a Province could be taken as a rough measure of its needs. The objection to this basis is that a 'share' is something to which a Province is entitled because its citizens or things have in some measure contributed to the fund, while a grant is something given to it without regard to its contribution to the Centre or to any common pool.

54. We have said enough to show the difficulties of the problem, but the difficulties have somehow to be faced and met, unless we keep the whole of the taxes on income as Central and permit Provinces simultaneously to levy a Provincial income-tax on the basis of origin. In our opinion the latter course is not feasible in the circumstances of this country even if justifiable in theory; and pending enquiry by the Finance Commission the setting up of which we suggest later, we have no choice except somehow to make the distribution on as equitable a basis as can be devised in the circumstances.

55. We propose to proceed on the basis of collection as well as population and also to make some provision for adjustment on the basis of need. We recommend that the Provincial share, i.e., 60 per cent. of the net proceeds be distributed among the Provinces, as follows:—

20 per cent. on the basis of population.

35 per cent. on the basis of collection.

5 per cent. in the manner indicated in paragraph 56.

—

60

—

For the distribution of the first two blocks, population figures of the previous census and collection figures as certified by the Auditor-General should be accepted as authoritative.

56. The third block of 5 per cent. should be utilised by the apportioning authority as a balancing factor in order to mitigate any hardship that may arise in the case of particular Provinces as a result of the application of the other two criteria; in distributing this block it would be open to the authority to take into account all relevant factors.

57. *Excise duty on tobacco.*—In our view, the most equitable method of distributing this duty is on the basis of estimated consumption. We have no doubt that the Government will take steps to obtain necessary statistical information if it is not already available.

58. *Estate and Succession Taxes.*—These taxes have not so far been levied. One of the hurdles to be crossed before they can be levied is the determination of the manner of distribution of the net proceeds among Provinces. Until the taxes are actually levied and collected for some time, no data about their incidence will be available. Hence, the levy will have to start with some *a priori* basis of apportionment among Provinces. We accordingly recommend that until the Finance Commission is in a position to evolve a better method on the basis of data available to it, the net proceeds should be distributed among the Provinces as follows:—

The net proceeds attributable to real property—On the basis of the location of the property.

Of the balance—

- 75 per cent. on the basis of the residence of the deceased;
- 25 per cent. on the basis of the population of the Province.

The administration and distribution of these taxes would, in the ordinary course, fall on the Central Board of Revenue, but it would be necessary to empower an appropriate authority to adjudicate in the case of disputes between Provinces as to the residence of individuals.

Effect of the proposals

59. The net effect of all our recommendations together is that, on the present basis of revenue, the Centre will have to transfer to the Provinces a sum of the order of Rs. 30 crores annually. It will recover a part of this loss by the imposition of the Estate and Succession Duties, of the net proceeds of which it will retain 40 per cent. We believe that it will not be beyond the capacity of the Centre to part with this amount annually during the next five years, though it must cause some strain, while at the same time the transfer will enable the Provinces to start their programme of essential social services and economic development.

60. In our recommendations regarding the distribution of proceeds of taxes among the Provinces, we have not only proceeded on more than one basis, but have provided for an element of flexibility in order to mitigate hardship. We have also provided for a periodical review so that the method of apportionment can be adapted to changing conditions from time to time on the basis of experience. We have further provided for grants-in-aid both to the weaker Provinces and to Provinces in difficulty.

61. We have also tried to make the whole arrangement as automatic and free from interference as possible. The basic features of the scheme will be embodied in the Constitution itself, while periodic changes will be made by the President on the recommendation of the Finance Commission, which we hope, will command the confidence of all. As frequent changes are undesirable, we have recommended a five-yearly review, though in special circumstances the Finance Commission may embark on a review at a shorter interval. The Provinces will now be sure of their position and can go ahead with their plans.

62. It is needless for us to add that to the extent that the Centre transfers its resources to the Provinces in the shape of new or increased shares in revenue, its ability to give grants to the Provinces for specific or other purposes must be correspondingly reduced.

63. We may not have been able in our proposals to satisfy everybody or to provide for every contingency that may possibly arise in the future, but we have tried to do the best possible under the circumstances.

Finance Commission

64. For reasons already stated, our recommendation as to the initial basis of apportionment among Provinces is not intended to be permanent. Conditions may change. The working of the scheme for some time will in itself produce some data that would indicate the nature and direction of the changes required. It is necessary, therefore, to have a periodical review of the whole position by a neutral expert authority.

65. We recommend for this purpose, among others, the appointment of a high level Tribunal of five members including a Chairman who has been, or is, holding high judicial office, not lower than that of a Judge of a High Court. This Tribunal may be called the 'Finance Commission'.

There may not ordinarily be enough work for the Commission to keep it busy continuously, and the members need not, therefore, devote their whole time to the work. The members should be appointed by the President in his discretion if only because a Commission of this kind would have frequently occasion to deal with points of conflict between the Centre and the Units. While we would not lay down any conditions in the Statute as to how these members should be selected, we recommend that two should be selected from a panel of nominees of Unit Governments and two others from a panel of nominees of the Central Government, the Chairman being selected by the President himself. One at least of the five should possess close knowledge of the finances and accounts of Governments, while another at least should have a wide and authoritative knowledge of economics. It would be an advantage if one or more were public men with wide experience. It would be a further advantage if a member possessed more than one qualification, and steps should be taken to secure the services of such individuals. The appointments might be made for 5 years and be renewable for another five years.

66. Between now and the setting up of the Finance Commission, we recommend that the Central Government should take steps in consultation with the Provinces, to collect, compile and maintain statistical information on certain basic matters such as the value, volume and distribution of production, the distribution of income, the incidence of taxes, both Central and Provincial, the consumption of important commodities, particularly those that are taxed or likely to be taxed, etc. The Finance Commission, when set up, would then have some basic information to go upon, and would no doubt call for such further information as it may need. It would also, to the extent necessary, arrange for continuous examination and research in respect of all important matters.

67. The Finance Commission should be entrusted with the following functions:—

- (a) To allocate between the Provinces, the respective shares of the proceeds of taxes that have to be divided between them;
- (b) To consider applications for grants-in-aid from Provinces and report thereon;
- (c) To consider and report on any other matter referred to it by the President.

68. While these categories would exhaust the duties of the Commission, it should be open to the Commission to make any recommendations it may think expedient in the course of the discharge of these duties. It may, for example, suggest a variation in the heads of revenue assigned to the Provinces, i.e., the transfer of new heads or the withdrawal of existing heads, or increases in the shares of existing heads or a reduction in these shares. In making all such recommendations, the Commission will take into account all relevant matters, including the state of finances of the Centre. Its recommendations, in so far as they do not involve any change in the Constitution, would, when accepted by the President, be given effect to by him by order, while recommendations involving a change in the Constitution, if similarly accepted by him, would be dealt with like any other proposed amendment to the Constitution.

69. The Commission's first function would be of the nature of an arbitration, and therefore, the Commission's decisions will be final. As regards the second function, we have no doubt that the recommendation of the Commission in respect of grants-in-aid would be given the utmost weight by the President and not ordinarily departed from by him.

70. The basis for the allocation of revenues referred to in item (a) should ordinarily be settled by the Commission at intervals of five years, but it should be open to the Commission to shorten the interval if it feels satisfied in special circumstances that such shortening is called for.

71. We would further recommend, in order to save time, that the Finance Commission may be set up in advance of the coming into effect of the Constitution, and its status regularised after the Constitution comes into effect.

Residuary Powers of Taxation

72. It appears that under the new Constitution, residuary powers will be vested in the Centre, so far as the Provinces are concerned, while the corresponding residuary powers in respect of the States will be vested in the States themselves. The question has therefore been raised whether, as a consequence, as many specific taxes as possible should not be entered in the Provincial List of subjects. We cannot think of any important new tax that can be levied by the Provinces, which will not fall under one or the other of the existing categories included in the Provincial List. We think that the chance of any practical difficulty arising out of the proposed constitutional position is remote, and, in any case, it seems to us that if a tax is levied by the Centre under its residuary powers, there will be nothing to prevent the proceeds of the whole or a part of this tax being distributed for the benefit of the Provinces only. As a matter of abundant caution, however, it may be laid down in the Constitution that if any tax is levied by the Centre in future under its residuary powers, and to the extent that the States do not agree to accede to the Centre in respect of the corresponding subject, the whole or a part of the proceeds of the tax shall be distributed between the Provinces and the acceding States only.

This disposes of item IX of our Terms of Reference.

Exemption of Provincial Governments from Taxation

73. Section 155 of the Government of India Act provides that profits from trading by a Provincial Government would be taxable only if the trade was carried on outside the Province. The exemption from Central taxation of trade by Provincial Governments carried on within the provincial limits did not matter much in the past; for the Governments had few trading operations. With the present tendency towards nationalisation (e.g., many provinces have already taken up quite seriously the nationalisation of road transport), the Centre should have some power to levy either income-tax or a contribution in lieu of income-tax in respect of these trading activities. Disputes as to such contributions should, we consider, be examined and adjudicated upon by the Finance Commission to which we have already referred. We feel that if nationalisation of industries or trades takes place rapidly, the whole question would have to be reviewed *de novo*, for the entire structure of the tax system of the country would be completely changed.

74. In the meantime we make the following recommendations:—

- (a) The existing practice should continue in respect of trading operations of the Central Government, i.e., no income-tax should be levied on the profits. It should be open to the Centre, however, to levy a contribution, as in the case of Railways, for its sole benefit from such operations. If the trading is carried on by a separate juristic person, tax will be levied even if the Government is the dominant shareholder.

- (b) Tax should be levied on the trading operations of Units (as also of local bodies), whether carried on within or without their jurisdiction; and the tax or the contribution in lieu thereof should be treated as ordinary income-tax revenue for the purpose of the divisible pool. We presume that if there are no profits, there will be no contribution; but if this presumption is wrong, we suggest that the contribution should be treated as part of the divisible pool of income-tax.
- (c) We recommend that quasi-trading operations incidental to the ordinary functions of Government such as the sale of timber by the forest department or of jail products by the jail department should not be treated as trading operations for this purpose.

Emergency Provisions

75. The needs of the Centre in times of emergency, such as war or large scale internal disorder, cannot be provided for through the detailed allocation of heads of revenue or of shares therein. It is obviously not possible to legislate how emergencies should be met. We would suggest that there should be a special provision in the Constitution authorising the President in an emergency to suspend or vary the financial provisions in such manner as he may think best in the circumstances. For example, if there is a war and an Excess Profits Tax is levied, it might be necessary for the Centre to retain the whole of this tax for itself.

Procedure in Financial Matters

76. Item X of our terms of reference is as follows:—

“Is it necessary to make any modifications in the existing provisions as regards procedure in financial matters contained in Sections 33 to 37 and 78 to 83 of the Government of India Act, 1935?”

77. The present financial procedure in the federal sphere is laid down in sections 33-37 of the Government of India Act, 1935. The corresponding clauses in the Draft Constitution as prepared by the Secretariat of the Constituent Assembly are 74, 75 and 77-81. We have two recommendations to make:—

- (1) When a money bill is sent from the Lower House to the Upper, a certificate of the Speaker of the Lower House saying that it is a money bill should be attached to, or endorsed on, the bill and a provision to that effect should be made in the Constitution on the lines of the corresponding provision in the Parliament Act, 1911. This will prevent controversies about the matter outside the Lower House.
- (2) After clause 80, a provision may be made making it necessary for Government to approach the Legislature for regularising any excess expenditure that might be discovered in audit after the close of the year. This is, in fact, done even now, but there is no statutory obligation to do so.

Subject to these two recommendations, we approve of the provisions in the Draft Constitution.

78. Financial procedure in the Provincial field is governed by sections

78-82 of the Government of India Act, 1935. The corresponding provisions in the Draft Constitution occur in clauses 149-153. We recommend:—

- (1) that in a Province with a bicameral Legislature, if any, the powers of the Upper House over money bills should be exactly the same as at the federal level;
- (2) that the new provision, in respect of a vote on excess grants, recommended by us at the federal level should be repeated at the provincial level also.

79. It is usual in written democratic constitutions to provide that no money can be drawn from the treasury except on the authority of the Legislature granted by an act of appropriation. In this country, the practice has been to authorise expenditure by resolutions of Government after the demands have been voted, and not by law. As the existing practice has been working well in this country, appropriation by law does not appear to be necessary.

Auditor-General

80. Though the question has not been specifically referred to us, we consider that the status and powers of the Auditor-General are so closely connected with financial procedure that we have gone into this matter also. The provisions in respect of the Auditor-General of the Federation are contained in clauses 108-109 of the Draft Constitution, and those in regard to the Auditor-General of the Provinces, in clauses 174-175. In substance, all these clauses repeat the existing provisions in the Government of India Act. We consider the provisions to be adequate for the purpose of securing the independence of the Auditor-General. We notice that the Auditor-General of India is to perform the functions of the Auditor-General in respect of the Provincial Governments also for an initial period of three years, and thereafter, until a particular Provincial Government chooses to appoint its own Auditor-General. We favour the continuance of a single Auditor-General for the Government of India as well as for the Provincial Governments, and it is possible that the Provincial Governments will also prefer that course, and will choose not to use their power of appointing separate Auditor-General of their own. The Draft Constitution, however, gives them the option to appoint Auditors-General if they think fit so to do. We are not sure whether it is possible altogether to do away with this option, much as we should like to do so; but if the option remains, we recommend that the provisions of sub-clause 3 of clause 174 should be amended so as to make the Auditor-General of a Province eligible for appointment as Auditor-General of another Province also.

Borrowing Powers

81. This question is covered by Item I of our Terms of Reference.

The present position is that the Provinces have the freedom to borrow in the open market in India except when they are indebted to the Centre. The most outstanding advantage of the freedom of borrowing is the sense of financial responsibility it creates; for, there is no more accurate, sensitive and dependable meter of the credit of a borrowing Government than the reaction of the securities market. We do not therefore wish to withdraw this freedom. Nevertheless, it is necessary to have some machinery which would ensure that borrowing Governments do not, by their competition, upset the capital market. This machinery is now provided through the Reserve Bank which advises all the Governments, but in view of the ambitious programmes of development both by the Centre

and by the Units, it may become necessary to set up some kind of expert machinery, both competent and definitely empowered, to fix the order of priority of the borrowings of the different Governments. In some countries, this co-ordination is effected either by a Ministerial Conference or by a Loans Council. Such machinery should not affect the responsibility of a Government for its borrowing policy, and should help only in the timing of the loan and avoidance of unnecessary competition. The co-ordination by the Reserve Bank has worked well in practice, and so long as it works well we do not recommend any change. We assume that there will be no distinction between federating States and the Provinces in this respect.

82. We are of the opinion that it should not be open to a Provincial Government or to a Government of a State to go in for a foreign loan except with the consent of the Federal Government and except under such conditions, if any, as the Federal Government may think fit to impose at the time of granting the consent. We notice, however, that there is an entry, viz., "18. Foreign Loans" in the Federal Legislative List in the Draft Constitution. We are not sure whether, the insertion of this entry in the Federal Legislative List is enough to prevent the Government of a Unit from going in for a foreign loan. We, therefore, recommend that the point be examined, and if the provision is not found to be adequate, a specific provision should be made in clause 210 of the Draft Constitution making it necessary for the Government of a Unit to obtain the consent of the Federal Government before going in for a foreign loan.

Problem of Indian States

83. The points at issue are contained in items III, IV, V, VI and XI of our terms of reference.

This part of our work is the most difficult part thereof, and the difficulty arises as much from the lack of statistical data as from the complications of the problem itself; for, not only do conditions differ widely between the Provinces as a whole and the States as a whole, but from State to State, so that it is difficult to apply a common yard-stick.

84. The Union Powers Committee of the Constituent Assembly in Para. 2(d) of their report, dated 17th April, 1947, has expressed its view on this subject in the following terms:—"We realise that, in the matter of industrial development, the States are in varying degrees of advancement and conditions in British India and the States are in many respects dissimilar. Some of the above taxes are now regulated by agreements between the Government of India and the States. We, therefore, think that it may not be possible to impose a uniform standard of taxation throughout the Union all at once. We recommend that uniformity of taxation throughout the Units may, for an agreed period of years after the establishment of the Union not exceeding 15, be kept in abeyance and the incidences, levy, realisation and apportionment of the above taxes in the State Units shall be subjected to agreements between them and the Union Government. Provision should accordingly be made in the Constitution for implementing the above recommendation." We entirely agree with these observations.

85. We assume that the ultimate object of the Federation must be to secure for the federating States the same, or nearly the same standards of economic development, fiscal arrangements and administrative efficiency as in the Provinces. It is only against this background that the States can have the same identity of interest with the Union as the Provinces have.

86. The first difficulty met with in our investigation is that many of the smaller States have neither a budget nor effective audit, so that adequate and reliable information about their financial position, on a basis permitting comparison with Provinces, is not available. We recommend accordingly that it should be made obligatory within as short a period as possible for each State to arrange for the preparation and authorisation of a periodical budget and the maintenance of proper accounts and audit and to send copies of its budget, accounts and audit reports to the Union Government.

87. In the absence of sufficient data, we are not in a position to make recommendations other than of a general nature. We are clear in our mind that the States should gradually develop all the taxes in the Provincial Legislative List so that they may correspondingly give up reliance on taxes in the Federal Legislative List. This process however would necessarily take some time; and in the meanwhile it will be necessary to have transitional arrangements.

88. We will now take up Land Customs. We do not recommend the immediate abolition of Land Customs, for we find that such a course would lead to a serious dislocation in the finances of many States. Moreover, where there is no large re-export trade, these land customs, though a possible source of annoyance, are really of the nature of octroi duty levied at a few points of entry. On a long view, however, in the interests of the States themselves, these duties might be replaced by other taxes, such as sales and turn-over taxes. We recommend accordingly that Land Customs now levied by the States should be abolished during the next 10 years. As a first step it may be arranged that—

- (1) a State shall not in future levy land customs on a commodity on which there is no such duty now;
- (2) a State shall not after a fixed date, increase the rate on any commodity; and
- (3) a State levying land customs should grant refunds on re-exports.

Gradual abolition over a period of 10 years should not cause any serious dislocation to the finances of these States, nor can there be any question of paying any compensation to these States, for the simple reason that the Union Government will not gain any corresponding revenue.

89. Maritime customs should be uniform all through the Union, and the Federal Government should take over the administration of such customs in all the maritime States. If this arrangement results in the loss of any State of the revenue now enjoyed by it, it is only fair that the State should be compensated for the loss. Pending determination of the appropriate compensation in each case by a States Commission, the appointment of which we recommend in a later paragraph, each State may be given an annual grant equal to the average revenue from this source during the last three years. The right of Kashmir to a rebate on sea customs may be similarly abolished on payment of a similar grant.

90. The Federal Government may levy Central Excises in all the States, but those States which now enjoy the benefit of a part or the whole of these revenues raised in their areas should, in lieu of such benefit, receive grants on the basis of the average revenue enjoyed by them from these sources during the last three years. In our opinion, neither this arrangement nor the one referred to in the foregoing paragraph should present any difficulty from the purely financial point of view either to the Union or to the States.

91. The Indian Income-Tax Act, with such modification as may be considered necessary by the President, may be applied to all the Federating States. The net proceeds of the tax attributed to the States may be credited to a States Income-Tax Pool and such portion not being less than 75 per cent. of the net proceeds attributable to each State, as determined by the President, may be paid back to the States.

We are aware that many problems will arise in the course of allocating these proceeds between the different states, but they are not insoluble, and can be solved on lines similar to those followed in allocating similar revenues between the Provinces.

92. The need for a uniform system of income-tax both in the Provinces and in the States has become urgent not only because of the facilities afforded for evasion and avoidance of the Central Income-tax by the existence of States with lower rates of taxation or no tax at all, but also because it is alleged that industries are being diverted artificially by the incentive of lower taxation to areas not inherently suited for the industries.

93. Though we do not favour any abrupt change in the *status quo*, we do not attach much weight to the argument that the States are, as a whole, industrially backward and that they cannot, therefore, stand the same high rates of taxation, particularly income-tax, as the Provinces can. If the productive capacity of a State, and consequently its level of income, is low, it follows that the State will not have to contribute much by way of tax if it falls in line with the Provinces. If, on the other hand, the point is that industries should be artificially stimulated in the States somehow by the incentive of lower taxes, it is obvious that if the State is not suited for industrial development, the cost of bolstering up its industries must ultimately fall upon the Provinces and other States.

94. As already stated, we are not in a position to make detailed recommendations regarding the States. We recommend for this purpose the establishment of a States Commission with five members who should possess wide knowledge of the financial administration of Provincial, Federal or State Governments. Preferably, one of these members might be a member of the Finance Commission (for Provinces) referred to earlier in this report. The Commission should advise the President, as also the States, about their financial systems and suggest methods by means of which the States could develop their resources and fall into line with the Provinces as quickly as possible. One of the first tasks of the Commission will be to examine in detail the privileges and immunities enjoyed by each State, and also the connected liabilities, if any, and recommend a suitable basis of compensation for the extinction of such rights and liabilities. We consider in particular that the States Commission should deal with the problems before it with understanding and sympathy and suggest solutions which would not only be fair both to the States and to the Provinces, but enable the States to come up to the Provincial standards in as short a time as possible.

95. The States which come into the above arrangements would pay their contribution for Defence and other Central services through the share of the net proceeds of Central taxes retained by the Centre, and nothing more should be expected from those States. On the other hand, the States which accede but do not come into the above arrangements, should pay a contribution to the Centre, the amount of which should be determined by the States Commission having regard to all the relevant factors.

96. The constitutional arrangements in this respect, particularly during the interregnum of 15 years, should, in our opinion, be kept very flexible. The President should be enabled by order to adopt any financial arrangement he may find expedient with each State until such arrangement is altered by an Act of the Federal Legislature after necessary consultation with the States.

97. While the outlines which we have indicated above are capable of being applied to most of the major or even middle-sided States, it is, in our opinion, necessary to group together a number of smaller States in sizable administrative units before they can be brought into any reasonable financial pattern.

98. We are sorry that we have not been able to contribute anything more precise than we have done to this part of the terms of reference to us.

99. We enclose two Appendices (IV and V) one of which sets out in detail, as far as we have been able to collect, the rights and immunities enjoyed by various States, and the other setting out the total budgets of certain States and the part played by Land Customs in those budgets.

Summary of Recommendations

100. (1) No major change to be made in the list of taxes in Federal Legislative List as recommended by the Union Powers Committee. (Para. 30).

(2) The limit of Rs. 50 to be raised to Rs. 250 for taxes on professions etc. levied by Local Bodies. (Para. 30).

(3) An entry to be made in the Federal Legislative List of a new item "Stock Exchanges and Futures Markets" etc. (Para. 30).

(4) A few minor changes of a drafting nature to be made in the list of taxes in the Provincial Legislative List; and no new items for insertion in the Provincial Legislative List. (Paras. 31-33)

(5) The Centre to retain the whole of the net proceeds of the following taxes, viz., (a) Duties of Customs including Export Duties; (b) tax on capital value of assets, etc.; (c) taxes on Railway fares and freights; and (d) Central Excise other than on tobacco. (Para. 34).

(6) The grant of fixed assignments for a period of years to the jute-growing provinces to make up for their loss of revenue. (Paras. 35-36)

(7) The net proceeds of the following taxes to be shared with the Provincial Governments, viz., (1) Income-tax, including Corporation Tax (2) Central Excise on Tobacco; (3) Estate and Succession Duties. (Paras. 38-42).

(8) The suggestion that the Centre should be allotted only the excises on specified commodities, not accepted. (Para. 41)

(9) Federal Stamp Duties and Terminal taxes on goods, etc. to be administered centrally, but wholly for the benefit of the provinces. (Paras. 43 and 44)

(10) Larger fixed subventions than now, necessary for Assam and Orissa, and subventions for limited periods for East Punjab and West Bengal, but no precise figures recommended for lack of data. (Paras. 45 and 46)

(11) Grants-in-aid on the Australian model not favoured. (Para. 48)

(12) Merging the tax on agricultural income in the Central Income-tax and similarly the Estate and Succession Duties on agricultural property in the similar duties on property in general to be examined in consultation with Provincial Governments and transfers made from the Provincial List of subjects, if necessary. (Para. 49).

(13) Not less than 60 per cent of the net proceeds of Income-tax, including Corporation Tax and the tax on Federal emoluments, to be divided between Provinces in the following manner:—

20 per cent. on the basis of population, 35 per cent. on the basis of collection and 5 per cent as an adjusting factor to mitigate hardship. (Paras. 55 and 56).

(14) Not less than 50 per cent. of the net proceeds of the excise on tobacco to be divided between Provinces on the basis of estimated consumption. (Para. 57)

(15) Not less than 60 per cent. of the net proceeds from Succession and Estate Duties to be divided between the Provinces on the following basis:—duties in respect of real property on the basis of allocation of the property, and of the balance, three-fourths on the basis of the residence of the deceased and one-fourth on the basis of population. (Para. 58)

(16) Net effect of the recommendations, to transfer annually a sum of the order of Rs. 30 crores from the Centre to the Provinces. (Para. 59)

(17) A Finance Commission with a High Court Judge or ex-High Court Judge as Chairman and four other members to be entrusted with the following functions:—viz. (a) allocation between the Provinces of their shares of centrally administered taxes assigned to them; (b) to consider applications for grants-in-aid for Provinces and report thereon; (c) to consider and report on other matters referred to it by the President. (Paras. 65-67)

(18) The Commission to review the position every five years, or, in special circumstances, earlier. (Para. 70).

(19) A tax levied by the Centre under its residuary powers, not to enure to the benefit of a non-acceding State unless it agrees to accede to the Centre in respect of that subject. (Para. 72).

(20) Trading operations of Units, as also of Local Bodies, whether carried on within or without their jurisdiction, to be liable to Central Income-tax or a contribution in lieu, but quasi-trading operations incidental to the normal functions of Government not to be taxed. (Para. 74).

(21) The President to be empowered in an emergency to suspend or vary the normal financial provisions in the Constitution. (Para. 75).

(22) A few minor changes suggested in regard to the procedure in financial matters. (Para. 77).

(23) No change to be made in respect of borrowing powers of Units. (Paras. 81-82).

(24) Early arrangement to be made for the preparation of regular budgets and the maintenance of appropriate accounts and audit by all acceding States. (Para. 86).

(25) States gradually to develop all the taxes in the Provincial Legislative List and correspondingly give up taxes in the Federal List (Para. 87).

(26) Maritime customs and excises in States to be taken over by the Centre, the States being compensated therefor if necessary. (Paras. 89 and 90).

(27) The Indian Income-tax Act to be applied to all the federating States, and 75 per cent. of the net proceeds attributable to the States to be divided between them. (Para. 91).

(28) A States Commission to be set up with five members with wide knowledge of the financial administration of Provincial, Federal or State Governments. (Para. 94).

(29) The States Commission to examine the privileges and immunities etc. of States and to suggest suitable compensation for the extinction of these rights and liabilities. (Para. 94).

(30) States which do not come into the arrangements to pay a contribution to the Centre to be determined by the States Commission. (Para. 95).

(31) The *interim* Constitutional arrangements with the States to be flexible and small States to be grouped together. (Paras. 96 and 97).

Conclusion

101. Some of our recommendations would need to be embodied in the Constitution while others would be given effect to by the order of the President. We have attempted a draft of the necessary provisions in the Constitution to give effect to the former; and these are set out in Appendix VI.

102. Mr. Rangachari has signed this report in his personal capacity, and the views expressed in it should not be treated as committing in any manner the Ministry of Finance of which he is an officer.

NALINI RANJAN SARKER,

V. S. SUNDARAM,

M. V. RANGACHARI.

NEW DELHI;
December 5, 1947.

(b) Revenues of the Province

A. By Taxes	B. Commercial Operations.	C. Sovereign Rights. Ranch and Lajee	D. Grants-in-aid and subve- tions from the Centre.
A. Directly raised by the Province.	B. Levied and collected by the Federation but which is or may be allocated in part to the Provinces.	C. Levied and collected by the Federation but which is or may be allocated in part to the Provinces.	
Items in List A of the other Table.	(a) By the Government of India Act. Income-Tax.† Export duty on Jute.‡	(b) By Federal Legislation: Salt.† Federal Excise Duty. Export Duties.‡	
1. Land Revenue. 2. Duties of excise on alcoholic liquors, etc., excluded from Federal revenue. 3. Taxes on Agricultural income. 4. Taxes on lands and Buildings* Hearths and Windows. 5. Succession to Agricultural land. 6. Taxes on Mineral rights. 7. Capital taxes. 8. Taxes on Professions, Arts, Trades and Callings.* 9. Animals and Boats.* 10. Sale of Goods and Advertisements. 11. Oetrol. 12. Taxes on luxuries, entertainments, etc.* 13. Stamps—other than Stamps in Federal List. 14. Taxes on Passengers and Goods in inland waterways. 15. Tolls.† 16. Miscellaneous Receipts from fees including fee taken in Courts (other than the Federal Court.)			

* These taxes are now raised by Municipal and other Local authorities for their needs.

† Now abolished—but before abolition was a source of Municipal Taxation.

‡ By order in Council 50% of the net proceeds of tax on income other than Corporation Tax exclusive of proceeds attributable to Chief Commissioners' Provinces and taxes in respect of Federal enclaves are distributable in accordance with a prescribed ratio.

§ 60† assigned to Provinces by Order in Council distributed among Jute producing Provinces in proportion to the respective amounts of Jute grown in them.

|| Duty abolished.

|| No share allotted to Provinces.

APPENDIX II **FINANCIAL POSITION OF THE PROVINCES AND THE CENTRE FROM 1937-38 TO 1946-47** **(a) Provinces**

(In lakhs of Rupees)

Province	Provincial Revenue	Devolution Grants from the Centre including Dev. Grants	Total Revenue	Total Revenue Expenditure	Cumulative Deficit (-) or Surplus (+)	Balances in Reserve Funds on 31st March, 1947	Closing balance on 31st March, 1947
Madras	2,63.27	24.12	2,87.39	2,84.22	+ 3.17	29.18	56
Bombay	1,92.52	26.51	2,19.03	2,06.69	+12.34	17.07	42
Bengal	1,65.35*	69.92	2,35.27	2,51.13*	-15.86	25	2,48
United Provinces	1,79.33	26.77	2,06.10	2,04.99	+1.11	17.31	6,43
Punjab	1,84.12	11.51	1,95.63	1,60.46	+35.17	6.79	57
Bihar	75.06	15.10	90.16	81.81	+8.35	7.78	1,07
C. P. & Berar	63.61	7.69	71.30	70.66	+64	8.14	2,41
Assam	35.54	7.89	43.43	42.89	+54	1,02	1,54
N. W. F. P.	11.94	11.55	23.49	22.95	+54	15	63
Orissa	17.71	7.93	25.64	25.11	+53	10	60
Sind	55.19	10.27†	65.46	60.04	+5.42	8.14	8

*Subsidy of 3,00 in 1943-44 taken by Bengal as reduction of Expenditure on Famine. Hence Revenue and Expenditure both have been increased by 2,00.

†The subvention was capitalised on 1st April 1944 and the value set off against the Lloyd Barrage Debt. Revised Estimates have generally been taken for 1946-47.

(b) Central Government (1937-38 to 1946-47)

(In lakhs of Rupees)

Year	Revenue	Expenditure			Deficit (—) Surplus (+)
		Civil	Defence	Total	
1937-38	86.61	39.39	47.22	86.61	..
1938-39	84.52	38.97	46.18	85.15	—63
1939-40	94.57	45.03	49.54	94.57	..
1940-41	1,07.65	40.57	73.61	114.18	—6.53
1941-42	1,34.57	43.33	1,03.93	1,47.26	—12.69
1942-43	1,77.12	74.28	2,14.62	2,88.90	—1.11,78
1943-44	2,49.95	81.44	3,58.40	4,39.84	—1,89,89
1944-45	3,35.71	1,00.77	3,95.49	4,96.26	—1,60,55
1945-46	3,61.18	1,24.38	3,60.23	4,84.61	—1,23,43
1946-47 (Revised Estimate) . . .	3,36.19	1,43.36	2,38.11	3,81.47	—45,28
TOTAL	19,68.07	7,31.52	18,87.33	26,18.85	—6,50,78

The amounts included in the above on account of revenue assigned to the Provinces and Grants-in-Aid and Subventions to them are given below:—

(In lakhs of Rupees)

Year	Share of Jute Export Duty	Share of Income-tax	Grants-in-aid and Subventions
1937-38	2.65	1.25	3.14
1938-39	2.51	1.50	3.05
1939-40	2.56	2.79	3.04
1940-41	1.85	4.16	3.04
1941-42	1.95	7.39	3.03
1942-43	1.40	10.90	2.76
1943-44	1.38	19.50	5.75 (a)
1944-45	1.49	26.56	8.70 (b)
1945-46	1.57	28.75	9.70 (c)
1946-47 (Revised Estimate) . . .	2.80	29.87	1.70
TOTAL	20.16	1,32.67	43.91 (d)

(a) Includes 3.00 Special Grant to Bengal.

(b) Includes 7.00 Special Grant to Bengal.

(c) Includes 8.00 Special Grant to Bengal.

(d) Includes 7 roundly in all for Coorg.

APPENDIX IIISUMMARY OF PROVINCIAL SUGGESTIONS

Tax	Assignment existing or contemplated	Provinces proposing	Assignment proposed for provinces
1	2	3	4
Part I—Taxes			
1. Income-tax (other than on agricultural income). {Sec. 138 of the Government of India Act, 1935 and item 54 in Federal Legislative List.)	A maximum of 50% of the net proceeds to be distributed among provinces.	Madras Bombay	A minimum of 50% of net proceeds. 75% of income tax and corporation tax receipts for provinces or 75% of the corporation, income and super taxes paid by residents in a province to be earmarked for that province. From the divisible pool from corporation and income tax 33½% should be allotted to Bombay which is the largest single contributor to the revenue.
		U. P.	50% for provinces on population basis.
		C. P.	75%. Tax on Agricultural income also should be collected by centre.
		West Bengal	60% to be distributed in proportion to the collection of these taxes in provinces.
		Bihar	Even on the basis of population Bihar should have received 17 crores as against 13 allotted. In future none of the poorer provinces should get an amount lower than that payable on the basis of population. The distribution should be governed not by residence of the assesses but by the place where the income is earned. The basic factors must be population and the place where the income is earned. If any modifications are to be made they must be done with the object of assisting the financially poorer provinces among which Bihar is at the very bottom.
		Orissa	Distribution of 50% may continue as at present; but the percentages should be revised taking into consideration the factor also of the state of development in addition to those of population and residence used by Sir Otto. Due weightage to be given to undeveloped provinces. Should the provincial share exceed 12 crores, 75% of the excess may be left to the discretion of the Central Government

1	2	3	4
	East Punjab	After the partition the East Punjab Province faces a deficit of about 3 crores; its share of income tax proceeds should be very appreciably increased to meet the deficit fully.	
	Assam	75%. There should be a drastic revision of the shares of provinces in income tax receipts having regard to the facts that Sind and N.W.F.P. go out, that the amounts now available in the divisible pool have enormously exceeded the original estimate and some provinces are now getting, as a result, income tax amounts exceeding the entire revenues of some others.	
2. Corporation Tax. (Item 46 in Federal Leg. List.)	Wholly Federal	Madras	At least 50% of the net proceeds to go to provinces.
		Bombay	75% for provinces.
		U. P.	50% for provinces on population basis.
		C. P.	C. P. suggests the inclusion of Corporation tax and taxes on Capital and Capital Assets in taxes on income for distribution.
3. Central Excise duties on tobacco and other goods except alcoholic liquors. (Item 46.)	There is provision for sharing in full or in part [Sec. 140 (1)] but not so far shared.	Madras	Should be entirely provincialized.
		Bombay	Should be provincialized or not less than 50% of the net proceeds in each producing unit to be allotted to that unit.
		U.P.	Should be entirely provincialized and distributed on population basis.
		C.P.	Should be provincialized or 75% should be allotted to provinces. The duty should cover some more articles such as rubber goods, papers, etc.
		West Bengal	25% of the federal excise should be allocated to provinces.
		Bihar	A portion of the duty should be distributed on the basis of the yields in different provinces.
		Orissa	A portion may be distributed to provinces gradually particularly as the provinces are now faced with the loss of their excise revenue.
		Assam	At least 75 % of the excise duty collected on her oil should be allotted to Assam. At least 50 % of the other excise duties (Sugar Steel, Matches, Tobacco and Betel Nuts) to be given to the producing units on a

1	2	3	4
			formula combining factors of province of production, size of population and level of revenue-expenditure.
4. Export Duties on Jute and Jute products.	62½ per cent. of net proceeds. [Section 140 (2).]	West Bengal	75 per cent. should accrue to the provinces growing and manufacturing jute.
		Bihar . . .	The entire net proceeds of the jute producing provinces should be distributed proportionately among the concerned provinces.
5. Export Duties	....	Madras	At least 50 per cent. of net proceeds of all export duties should be distributed to provinces according to principles formulated by Federal Legislature. Analogy of jute duty arrangement cited.
		Bombay	50 % of net proceeds.
		U. P.	All export duties should be entirely provincialized and distributed on population basis.
		C. P.	Export duty on minerals (Coal and Manganese, etc.), should be allotted to C. P. (Jute analogy).
		West Bengal	25 % of net proceeds of export duties other than jute.
		Orissa . . .	A portion may be distributed to provinces gradually particularly as the provinces are now faced with the loss of their excise revenue.
		Assam	At least 75 % of the sale proceeds of export duty realised on her tea.
6. Succession duties, Federal Stamp duties, Terminal taxes (Railway & Air), Taxes on Railway Fares & Freights.	Provided for full distribution to provinces. (Sec. 137).	Madras	It should be provided that the net proceeds shall not form part of the Revenues of the Federation but shall be distributed to the provinces according to principles formulated by the Federation.
		U. P.	The provisions should be fully utilized to augment the resources of provinces.
		C. P.	Succession duties in respect also of agricultural land should be transferred from the provincial to the Federal list. The duty should be on <i>ad valorem</i> basis.
		West Bengal	The provincial governments should be empowered to levy them if the Central Government do not levy them.

1	2	3	4
	Assam		50 % of income from increase in railway fares and freights above the levels determined by the Railway Budget of February 1947 to go to provinces on population ratios weighted by a given factor in favour of provinces with smaller revenues and expenditure. Should be transferred to Provincial list.
7. State Lotteries	Federal (item 48 Federal List).	C. P.	
8. Taxes on trades, professions, callings and employment.	Provincial tax, Sec. 142-A, Item 46 in Provincial list.		The limit of Rs. 50 p.a. should be removed and gradation according to capacity should be provided for.
9. Taxes on sales and advertisements.	(Item 48 in Provincial list).		Sales tax should be levied in all provinces and acceding states.

Part II.—Non-tax proposals.

U. P. . . (1) The inequity of the Niemeye Award should be rectified and the central allocation for U. P. should aim at a minimum of 6 or 7 crores p.a. going up to 12 or 13 crores in the space of 10 years.

(2) The consolidated debt due from the U.P. to the Government of India should be wiped off.

(3) The Government of India should share losses on the food grains scheme as originally promised by them.

C. P. . . A system of central grants derived after taking into account such factors as natural resources, stage of industrial development, taxable capacity, etc., is essential. An expert financial enquiry should be undertaken.

West Bengal . . (1) Provision for federal aid to provinces for social and amelioration work.

(2) There should be a finance commission on the lines of the Commonwealth Grants Commission in Australia.

Bihar . . If any grants-in-aid or subventions are given in future the per capita revenue and expenditure in each province during the last ten years should be kept in mind. Those with low per capita revenue and expenditure should be given greater assistance than the richer.

Orissa . . The broad lines of the present allocation may be maintained in the new Constitution; but the subvention of 40 lakhs fixed for the province should be increased; it should be

1

2

3

4

stated as a percentage of the revenues of the central government and in any case there should be a minimum annual subvention of 150 lakhs.

Enforcement of the policy of prohibition and judicial panchayats will make the provincial administration impossible unless the Central Government multiplies its grants and subventions very liberally.

Abolition of the Zamindari system would seriously affect Land revenue and stamps. Make every one pay according to his capacity. Provide for a well regularised house tax on a provincial scale; a tax on passengers.

Nationalization of industry will wash away the twin anchor-sheets of Central finance—Income Tax and Customs.



East Punjab

(1) Particularly as the East Punjab is now to be the frontier of the Indian Dominion, there is a strong case for a recurring subvention of more than 1 crore for it (N. W. F. P. used to get 1 crore).

(2) A non-recurring subvention for the capital of the province. (Orissa was given such a grant).

Assam

There is an obvious case for an upward revision of the subventions granted to Orissa and Assam.

Assam as a frontier as well as a backward province of India deserves special treatment.

Its royalty of 5 per cent. on oil (as against 10 times that amount of central excise) is unfair. Large amounts of income accrue in Assam but are assessed in Calcutta which is headquarters of the concerned companies. Some provinces like Bombay and Bengal have been allowed to get a large share of increase tax receipts because of their claim to be territorially responsible for the production of the incomes. Assam is entitled to similar consideration in regard to certain items of central revenues.

APPENDIX IV

RIGHTS AND IMMUNITIES ENJOYED BY THE STATES

(A) Annual value of the immunities enjoyed by the States under Sea Customs currency and coinage.

State	Year to which the figures relate	Rs. in lakhs	Remarks (see footnote)
<i>(i) Sea Customs</i>			
Kutch	1945-46	21.18	(1)
Bhavnagar	Do.	.19	(2)
Morvi	Do.	6.80	(3)
Junagadh (excluding Mangrol)	Do.	12.65	(3)
Nawanagar	Do.	15.27	(3)
Porbandar	Do.	3.63	(3)
Cambay	Do.	2.00	(4)
Baroda	1943-44	22.98	(5)
Janjira	1945-46	3.00	(6)
Cochin	1944-45	22.70	(7)
Travancore	Do.	17.99	(7)
Sawantwadi	Do.	0.12	(8)
Mangrol	Do.	2.33	(9)
Kashmir	1945-46	11.00	(10)
<i>(ii) Currency and Coinage</i>			
Hyderabad	1945-46	105.55	
(6th October 1945—5th October 1946).			

FOOTNOTE

(1) In connection with Federation, the proposed method of calculating the immunity in the case of Kutch was as follows:—

To the trade figures supplied by the State the British Indian tariff rates should be applied and from this total should be deducted the difference between the duty calculated at British Indian tariff rates and that actually collected at State rates on goods not consumed in the State itself.

As the figures necessary to apply this formula are not available the figure given in the statement represents simply the amounts of customs duty retained by the State in 1945-46.

(2) The value of the immunity in the case of Bhavnagar is the total of customs collections made and retained by the State. The figure for 1945-46 is abnormal.

The figures for 1930-31 to 1935-36 were as follows:—

Year	Rs.
1930-31	51,02,974
1931-32	75,91,016
1932-33	81,93,368
1933-34	99,32,628
1934-35	1,21,55,668
1935-36	61,62,300

(3) The value of the immunity in these cases is represented by the total customs collections less the amount payable to the Central Government under the Agreements.

(4) By the agreement of 1938 Cambay is allowed to retain whichever is greater of the following two amounts:—

(i) Rs. 2 lakhs; or

(ii) a proportion of the customs duties collected at the State ports on the basis of population with suitable adjustments to correct difference between the proportion of the urban population to the rural population in the state and the whole of India respectively. Since the net customs revenue collected by the State during 1945-46 was only Rs. 6,993/- the State was entitled to receive from the Central Government the difference between that figure and Rs. 2 lakhs. The immunity in this case is therefore Rs. 2 lakhs.

(5) Baroda is entitled to retain all the duty collected by it up to a maximum of 1 per cent. of the average customs revenue of British India and until this maximum is reached, the immunity is represented by the State's collections. The latest figures available are given here.

(6) Annual payment under the 1940 Agreement, which represents the State's immunity.

(7) The immunity of Travancore and Cochin is represented by their share of the pool produced by the collection of duty at the British port of Cochin, at Cochin ports and Travancore backwaters. In addition it is necessary to include for Travancore the annual collections of customs duty at their ports other than the backwater ports; and in respect of commodities such as tobacco, on which Travancore levies duty at rates other than British Indian rates, the amount of duty at those rates is substituted for the actual collections.

(8) The immunity is represented by the compensation payment of Rs. 13,433 less Rs. 1,700 allotted for abolition of land-customs under the Agreement of 1838.

(9) Actual amount collected and retained by the State.

(10) Drawback from customs on goods imported by sea through British India.

(B) Note prepared by the Ministry of States on excise arrangements with Indian States

Matches.—In respect of match excise there is a pooling arrangement with the States. The main principle is that the whole of the proceeds of the tax collected in any State are made over to the general pool and the whole proceeds of the pool divided between British India on the one hand and the various States that agree to come into the pool on the other on the basis of population, regardless of whether matches are manufactured or not, in the States. Import of matches from the States that have not joined this arrangement, is prohibited. The conditions that a State is required to accept for admission to the pool are—

(a) The State should levy duty on matches produced in their territories by means of British Indian banderols and pay the proceeds into the common pool.

- (b) The British Indian procedure for the levy and collection of duty should be followed.

Licence fees and fines are not included in the pool. Deduction on account of collection-charges at a uniform rate is allowed. The present rate is 3 per cent of the net collections. The total net revenue is distributed among the various States and British India on the basis of population. While the amount contributed by States during 1944-45 to the pool was Rs. 44,38,970 the amount actually paid to the States was Rs. 1,00,66,875. The British Indian realisation was Rs. 5,46,26,781.

* * * *

3. Sugar.—Arrangements were made in 1934 with the sugar producing States whereby they were required to levy the same rates of excise and under the same conditions as in force in British India in return for which sugar produced in Indian States was to be admitted free to British India. Soon after the outbreak of war, arrangements were made with the major sugar producing States, whereby in addition to compliance with the 1934 arrangements, these States undertook to hand over to the Central Government the excess of their earnings from sugar excise in any year above the highest revenue derived from the sugar excise in any of the three years preceding 1939-40. As regards States which had not till then developed a degree of production materially in excess of their own consumption and States which had not commenced production, the Residents were asked to watch and report developments. All producing States were, however, requested to levy the same duty as in British India. In the case of such States where production now exceeds consumption, the arrangement is that the State retains duty on the basis of population at the rate of Rs. 3/20 per capita revenue.

The sugar producing States are—

A	B
Mysore	Baroda
Phaltan	Hyderabad
Kolhapur	Udaipur
Kapurthala	Gwalior
Rampur	Aundh
Jaora	Nabha
Bhopal	Kashmir
Sangli	
Miraj	

The States falling in category A above produce sugar in excess of their requirements and those falling in category B less than their requirements. Of the first mentioned States, negotiations were satisfactorily concluded with the first five. Bhopal which is surrounded on three sides and Jaora which is surrounded on all sides by Indian States, taking full advantage of their geographical position did not accept the settlement at first. Jaora however, agreed to surrender its surplus revenue from 1942-43. Sangli and Miraj States only recently developed their sugar factories and have agreed to surrender the surplus revenue on the basis of the formula at 'A' above but have protested for revision of the arbitrary figure of actual consumption represented by 3/20ths. The matter is under consideration.

The amount retainable by Indian States and the average duty collected are as follows:—

Name of State	Amount retainable	Average collection
	Rs.	(Rs. in lakhs)
Mysore	12,91,135	17
Kapurthala	2,52,000	8
Kolhapur	2,33,592	4
Rampur	11,43,532	16
Phaltan	5,21,262	8
Sangli	44,007	Not known
Miraj	6,944	Not known

Following is the contribution by the above States to the Central Exchequer in respect of the year 1945-46—

	Rs.
Mysore	6,47,368
Kapurthala	2,26,820
Kolhapur . . . . .	..
Rampur	1,40,585
Phaltan	1,07,869
Sangli	59,268
Miraj . . . . .	..

Information regarding the amount to be surrendered by Mysore and Rampur, is still awaited.

7. **Tobacco.**—All States are expected to levy the British Indian rate of duty. (Some States where production is not of much consequence levy excise on the basis of acreage in view of the high cost of administration.) The States are entitled to retain the proceeds of the excise duty subject to the limit, on the basis of their population, worked out in accordance with the following formula—

$$A \frac{R \times P}{P}$$

Where A is the limit retainable by a State;

R, the total net revenue in any year calculated from 1st April to 31st March, collected in British India and all the participating States (i.e., the gross revenue less the cost of collection, licence fees, penalties, fines etc.);

p, the population of the State concerned;

P, the population of British India and all the participating States.

Some States have not come into the scheme and the tobacco of such States on entry into British India is confiscated and released on payment of fine and penalty. Although section 5 of the Central Excises and Salt Act 1944 empowers us to impose customs duty equivalent to the excise duty, the provisions of this section have not been involved because it has been possible to realise an amount equivalent to the excise duty on State Tobacco under rule 32 of the Central Excise Rules by means of confiscation. Hyderabad has not accepted the formula and does not share the revenue with the Government of India although it has legislated on the lines of British India. No restrictions have been imposed on the entry of Hyderabad Tobacco into British India.

To facilitate movement of tobacco from and to the States, a special procedure for the movement in bond has been devised. Under this procedure the duty is realised at destination and credited to a Suspense account. The amounts realised on the State tobacco is at the end of the year credited to the State and is taken into account in the State's realisations for purposes of the formula. The revenue contributable by the States during the years 1943-44 and 1944-45 was Rs. 51,38,809 and Rs. 1,48,07,552 respectively.

8. Vegetable Product.—The formula is the same as in respect of tobacco. The only States concerned at present are Mysore and Cochin although the other States were asked to legislate and have legislated on the matter. Of the two States, namely, Cochin and Mysore, Cochin's contribution to the Central Revenues during the year 1943-44 and 1944-45 was Rs. 76,160 and Rs. 41,212 respectively. The Mysore State has nothing to pay under the formula.

9. Tea, Coffee and Betel Nuts.—The States concerned are:—

Tea:—Mysore, Travancore, Cochin; Tripura, Mandi;

Coffee:—Mysore, Travancore, Cochin;

Betel Nuts: Mysore, Travancore, Cochin, Tripura, Sawantwadi and Janjira.

The rates of duty imposed by Travancore are as follows:—

	Rs.	As.	Ps.	
Betel Nut	0	1	6	per lb.
Coffee	0	0	6	„
Tea	0	1	9	„

The same formula as in respect of tobacco has been adopted in respect of these excises also, although the Board's intention was that 'P' in respect of these excises should denote the population of all India and not limited to participating States and British India as in the case of tobacco. Mysore and Travancore, the two important States, have been clamouring for a revision of the formula. In the case of Travancore the following revised formula has been offered:—

$$a = \frac{T}{P}$$

Where a denotes per capita consumption figure;

T, the total quantity of the article taxed in British India and in other participating units;

P, the total population of British India and other participating States.

On the basis of the per capita consumption figure worked out, the amount retainable by the State will be worked on the basis of the following formula.

$$A = a \times d \times p$$

Where A = amount retainable by the State;

a = per capita consumption figure of British India and the participating units;

d = rate of excise duty levied by the State;

p = Population of Travancore.

The excess over 'A' plus cost of collection will have to be surrendered by the State. The State's acceptance of the formula has not yet been received.

In the case of Mysore, we have agreed in respect of coffee that the amount retainable by the State may be determined on the basis of the Coffee Controller's statistics of coffee consumption in the State. Mysore has accepted this formula and is pressing for a similar formula in respect

of betel nuts. After a recent tour, the Board has stated that after the establishment of the Betel Nut Marketing Board, it may be possible to adopt the coffee formula in respect of betel nuts also

(C) Statement showing the value of service postage stamps supplied annually free to States

S. No.	Name of State	Value
1	Alwar	30,000
2	Baroda	1,25,000
3	Bharatpur	12,000
4	Bhopal	8,380
5	Bikaner	37,000
6	Bushahr	600
7	Cooch Behar	9,000
8	Datia	5,000
9	Dhar	3,000
10	Faridkot	1,000
11	Gwalior	480
12	Idar	550
13	Indore	35,000
14	Jhalawar	2,400
15	Jabbal	250
16	Kalsia	450
17	Kashmir	20,000
18	Kotah	15,000
19	Loharu	300
20	Malerkotla	900
21	Mandi	700
22	Marwar	39,000
23	Panna	900
24	Sikkim	1,500
25	Sirmoor	1,275
26	Suket	700

(D) Statement showing the values of immunities granted annually to Indian States in the shape of free conveyance of their official correspondence within the State limits

Name of the State	Value of the immunity	Remarks
	Rs.	
(1) Mysore	21,38,182	
(2) Hyderabad	5,440	Combined figure for the portion of the State in the Madras and Bombay Circles.
(3) Banganapalle	365	
(4) Pudukottai	37,960	
(5) Baroda	14,705	
(6) Bhor	68	
(7) Jawhar	3,627	
(8) Bhopal	49,177	
(9) Rewah	1,72,380	

(E) Statement showing the amounts of telephone revenue accruing in India on behalf of Indian States and vice versa

Amount of revenue accruing in India on behalf of States

	1944-45	1945-46	1946-47
	Rs.	Rs.	Rs.
1. Kashmir	1,912 3 0	2,731 3 0	1,646 13 0
2. Jammu Tawi	3,880 0 0	4,475 5 0	4,005 4 0

Amount of revenue accruing in States on behalf of India

	1944-45	1945-46	1946-47
	Rs.	Rs.	Rs.
1. Kashmir	1,702 5 0	2,375 1 0	1,187 7 0
2. Jammu Tawi	3,608 1 0	4,133 12 0	1,501 3 0



सत्यमेव जयते

APPENDIX "V"
STATEMENT SHOWING REVENUE AND THE PERCENTAGE OF
LAND CUSTOMS INCLUDED IN THE REVENUE OF CERTAIN STATES
(In lakhs of Rupees)

S. No.	Name of State	Total Revenue (Ordinary)	Land Customs	Percentage	Remarks
1	2	3	4	5	6
2	Hyderabad	943	124	13.2	
2	Travancore	611	89	14.6	
3	Kashmir	557	0117	21.0	
4	Gwalior	303	41	13.5	
5	Jaipur	197	23	11.6	
6	Baroda	434	20*	4.6	*Includes Sea Customs, figures of which are not separately available.
7	Jodhpur	224	40	17.8	
8	Udaipur (Mewar)	81	1	1.3	
9	Indore	305	27	8.9	
10	Bikaner	252	29	11.5	
11	Alwar	90	44	48.9	
12	Bhopal	124	20	16.1	
13	Kotah	48	6	12.5	
14	Tehri Garhwal	23	4†	17.4	†Includes Excise also
15	Bharatpur	65	23	35.4	
16	Cutch	89	1	1.1	
17	Patna	30	6	20.0	
18	Sarguja	17	5	29.4	
19	Nawanagar	110	19†	17.3	†Includes Sea Customs, figures of which are not separately available.
20	Tonk	34	11	32.3	
21	Bundi	29	8	27.6	
22	Sirohi	21	4	19.0	
23	Dungarpur	22	8	36.4	
24	Banswara	13	3	23.1	
25	Partabgarh	8	3	37.5	
26	Jhalawar	7	1	14.3	
27	Jaisalmer	6	3	50.0	
28	Shahpura	4	1	25.0	
29	Danta	3	1	33.3	
30	Palanpur	28	5	17.9	
31	Idar	45	27	37.8	
32	Balasimor	5	1	20.0	
33	Lunawada	10	2	20.0	
34	Sant	12	2	16.7	
35	Chhota Udaipur	24	2	8.3	
36	Radhanpur	23	4	17.4	
37	Baria	18	1	5.6	
38	Dewas (Junior)	23	4	17.4	
39	Panna	10	1§	10.0	§Includes Tributes &c.
40	Ratlam	17	6	35.3	
41	Alirajpur	6	111	18.7	
42	Bijawar	7	1‡	14.3	‡Includes Sayar
43	Chhatarpur	5	2	40.0	‡Includes Biyai.
44	Baiwani	12	2	16.6	
45	Jaora	22	3	13.6	
46	Rajgarh	12	1	8.3	
47	Sailana	6	1	16.6	
48	Jhabua	13	4	30.8	

APPENDIX VI

AMENDMENTS RECOMMENDED IN THE DRAFT CONSTITUTION**Provisions relating to procedure in financial matters**

Clause 75.—To clause 75 add the following, namely:—

- “(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under Section 74, and when it is presented to the President for assent under section 76, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.”

Clause 79.—In sub-clause (3) of clause 79, for the words “succeeding section” substitute the words “two succeeding sections”.

New clause 80-A.—After clause 80, insert the following new clause, namely:—

“80-A *Excess grants.*—If in any financial year expenditure from the revenues of the Federation has been incurred on any service for which the vote of the House of the People is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the House of the People and the provisions of sections 78 and 79 shall have effect in relation to such demand as they have effect in relation to a demand for a grant.”



सत्यमेव जयते

Clause 145.—For sub-clause (1) of clause 145, *substitute* the following, namely:—

“(1) Subject to the special provisions of this Part of this Constitution with respect to Money Bills, a Bill may originate in either House of the Legislature of a Province which has a Legislative Council.

(1a) Subject to the provisions of sections 146 and 146-A, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a Province having a Legislative Council unless it has been agreed to by both Houses either without amendments or with such amendments only as are agreed to by both Houses.”

Clause 146.—For clause 146, *substitute* the following, namely:—

“146. *Passing of Bills other than Money Bills in Provinces having Legislative Councils.*—(1) If a Bill which has been passed by the Legislative Assembly of a Province having a Legislative Council and transmitted to the Legislative Council is not, before the expiration of twelve months from its reception by the Council, presented to the Governor for his assent, the Governor may summon the Houses to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this section shall apply to a Money Bill.

(2) If at a joint sitting of the two Houses summoned in accordance with the provisions of this section the Bill, with such amendments, if any, as are agreed to in joint sitting is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting:—

(a) unless the Bill has been passed by the Legislative Council with amendments and returned to the Legislative Assembly, no amendments shall be proposed to the Bill other than such amendments, if any, as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned by the Legislative Council, only such amendments as aforesaid shall be proposed in the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed, and the decision of the person presiding as to the amendments which are admissible under this sub-section shall be final.”

New clauses 146-A and 146-B.—After clause 146, insert the following clauses, namely:—

“146-A. *Special provisions in respect of Money Bills.*—(1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a Province having a Legislative Council it shall be transmitted to the Legislative Council for its recommendations, and the Legislative Council shall within a period of thirty days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been

passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly, and if the Legislative Assembly does not accept any of the recommendations of the Legislative Council, it shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the Amendments recommended by the Legislative Council.

(4) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of thirty days, it shall be deemed to have been passed by both Houses at the expiration of the said period of thirty days in the form in which it was passed by the Legislative Assembly.

146-B. Definition of "Money Bill".—(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it makes provision—

- (a) for imposing or increasing any tax; or
- (b) for regulating the borrowing of money or the giving of any guarantee by the Province or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Province; or
- (c) for declaring any expenditure to be expenditure charged on the revenues of the Province, or for increasing the amount of any such expenditure.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition or increase of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the Legislative Assembly thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under section 146-A after it has been passed by the Legislative Assembly, and when it is presented to the Governor for assent under section 147, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill."

Clause 148.—In the proviso to clause 148, after the words "Provided that" insert the words "if the Bill is not a Money Bill".

Clause 151.—In sub-clause (3) of clause 151, for the words "succeeding section" substitute the words "two succeeding sections".

New Clause 152-A.—After clause 152, insert the following clause namely:—

"152-A. Excess grants.—If in any financial year expenditure from the revenues of the Province has been incurred on any service for which the vote of the Legislative Assembly is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly and the provisions of sections 150 and 151 shall have effect in relation to such demand as they have effect in relation to a demand for a grant."

Clause 153.—For clause 153, substitute the following clause, namely:—

"153. Special provisions as to financial Bills.—(1) A Money Bill or an amendment thereto shall not be introduced or moved except on the recommendation of the Governor.

(2) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a Province shall not be passed by a House of the Provincial Legislature unless the Governor has recommended to that House the consideration of the Bill."

Provisions relating to the Auditor-General of the Province

Clause 174.—for sub-clause (3) of clause 174, *substitute* the following, namely:—

"(3) The Auditor-General of a Province shall be eligible for appointment as Auditor-General of the Federation or as Auditor-General of any other Province but not for any other appointment either under the Federation or under the Government of a unit after he has ceased to hold his office."

Provisions relating to distribution of revenues between the Federation and units and miscellaneous Financial provisions

Clause 194-A.—For Clause 194-A *substitute* the following namely:—

"194-A. *Interpretation.*—In this Part—

(a) 'Finance Commission' means the Finance Commission constituted under Section 202-A of this Constitution;

(b) 'unit' does not include a Chief Commissioner's Province."

Clauses 196 to 199.—For clauses 196 to 199, *substitute* the following, namely:—

"196. *Certain succession duties.*—(1) Duties in respect of succession to property other than agricultural land and estate duty in respect of property other than agricultural land shall be levied and collected by the Federation, but sixty per cent. or such higher percentage as may be prescribed of the net proceeds in any financial year of any such duty, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces, shall not form part of the revenues of the Federation, but shall be assigned to the units within which that duty is leviable in that year, and shall be distributed among the units in accordance with such principles of distribution as may be prescribed.

(2) If any dispute arises as to the distribution of the net proceeds of any such duty among the units, it shall be referred for decision to such authority as may be appointed in this behalf by the President and the decision of such authority shall be final.

196-A. *Certain terminal taxes.*—Terminal taxes on goods or passenger carried by railway or air mail be levied and collected by the Federation, but the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces, shall not form part of the revenues of the Federation, but shall be assigned to the units within which that tax is leviable in that year, and shall be distributed among the units in accordance with such principles of distribution as may be prescribed.

196-B. *Certain stamp duties.*—Such stamp duties as are mentioned in the Federal Legislative List shall be levied by the Federation and collected, in the case where such duties are leviable within any Chief Commissioner's Province, by the Federation and in other cases, by the units within which such duties are respectively leviable, but the proceeds in any financial year of any such duty leviable in that year within any unit shall

not form part of the revenues of the Federation, but shall be assigned to that unit.

197. *Taxes on Income.*—(1) Taxes on income other than agricultural income shall be levied and collected by the Federation, but sixty per cent., or such higher percentage as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces shall not form part of the revenues of the Federation, but shall be assigned to the units within which that tax is leviable in that year, and shall be distributed among the units in such manner as may be prescribed:

Provided that the Federal Parliament may, at any time, increase the said taxes by a surcharge for Federal purposes and the whole proceeds of any such surcharge shall form part of the revenues of the Federation.

(2) In this section, "taxes on income" includes any sum levied by the Federation in lieu of any tax on income but does not include any contributions levied by the Federation in respect of its own undertakings.

198. *Salt duties and excise duties.*—(1) No duties on salt shall be levied by the Federation.

(2) Federal duties of excise shall be levied and collected by the Federation, but, if an Act of the Federal Parliament so provides, there shall be paid out of the revenues of the Federation to the units to which the Act imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among the units in accordance with such principles of distribution as may be prescribed:

Provided that fifty per cent., or such higher percentage as may be prescribed, of the net proceeds in any financial year of the excise duty on tobacco, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces, shall not form part of the revenues of the Federation but shall be assigned to the units within which that duty is leviable in that year, and shall be distributed among the units in such manner as may be prescribed.

198-A. *Taxes not enumerated in any of the lists in the Ninth Schedule.*—If any tax not mentioned in any of the lists in the Ninth Schedule to this Constitution is imposed by Act of the Federal Parliament by virtue of entry 90 of the Federal Legislative List, such tax shall be levied and collected by the Federation but a prescribed percentage of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces, shall not form part of the revenues of the Federation, but shall be assigned to the units within which that tax is leviable in that year, and shall be distributed among the units in accordance with such principles of distribution as may be prescribed.

198-B. *Grants in lieu of jute Export Duty.*—Until the abolition of the export duty levied by the Federation on jute or jute products or the expiration of ten years from the commencement of this Constitution, whichever is earlier, there shall be charged on the revenues of the Federation in each year as grants-in-aid of the revenues of the Provinces mentioned below the sums respectively specified against those Provinces:

Province	Sum
West Bengal	100 lakhs of rupees.
Bihar	17 lakhs of rupees.
Assam	15 lakhs of rupees.
Orissa	3 lakhs of rupees.

199. *Grants from Federation to certain Units.*—Such sums as the President may, on the recommendation of the Finance Commission, by order fix shall be charged on the revenues of the Federation in each year as grants-in-aid of the revenues of such units as the President may on such recommendation determine to be in need of assistance, and different sums may be fixed for different units:

Provided that there shall be charged on the revenues of the Federation in each year as grants-in-aid of the revenues of the Provinces of Assam and Orissa the sums of thirty and forty lakhs of rupees respectively or such higher sums as the President may on the recommendation of the Finance Commission fix in respect of either of these Provinces:

Provided further that there shall be paid out of the revenues of the Federation as grants-in-aid of the revenues of a Province such capital and recurring sums as may be necessary to enable that Province to meet the costs of such schemes of development as may be undertaken by the Province with the approval of the Federal Government for the purpose of promoting the welfare of the scheduled tribes in the Province or raising the level of administration of the scheduled areas in the Province to that of the administration of the rest of the Province:

Provided also that there shall be paid out of the revenues of the Federation as grants-in-aid of the revenues of the Province of Assam sums, capital and recurring, equivalent to—

- (a) the average excess of expenditure over the revenues during the three years immediately preceding the date of commencement of this Constitution in respect of the administration of the areas specified in Part I of the table appended to paragraph 19 of the Eighth Schedule to this Constitution; and
- (b) the costs of such schemes of development as may be undertaken by that Province with the approval of the Federal Government for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the Province."

Clause 200.—In sub-clause (2) of clause 200, for the word "fifty", wherever it occurs, substitute the words "two hundred and fifty"

New Clause 201-A.—After clause 201, insert the following clause, namely:—

"201-A. *Application of the provisions relating to distribution of revenues during the period a Proclamation of Emergency is in operation.*—Where a proclamation of Emergency is in operation whereby the President has declared that the security of India is threatened, then, notwithstanding anything contained in the foregoing provisions of this Chapter, the President may, by order, direct that all or any of those provisions shall, until the expiration of the financial year in which such Proclamation ceases to operate, have effect subject to such exceptions or modifications as may be specified in such order."

Clause 202.—For clause 202, substitute the following, namely:—

"202. *Definition of 'prescribed' and calculation of 'net proceeds' etc.*—
(1) In the foregoing provisions of this Chapter—

(a) 'prescribed' means—

- (i) until the Finance Commission has been constituted, prescribed by order of the President; and

- (ii) after the Finance Commission has been constituted, prescribed by order of the President on the recommendation of the Finance Commission;
- (b) 'net proceeds' means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of the Federation, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision in this Chapter, an order of the President may, in any case where under this Part of this Constitution the proceeds of any duty or tax are, or may be, assigned to any unit, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters."

New Clause 202-A and 202-B.—After clause 202, insert the following clauses namely:—

"202-A. Finance Commission.—(1) There shall be a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President in his discretion.

(2) The Chairman shall be a person who holds or has held judicial office not inferior in rank to that of a Judge of a High Court.

(3) The members of the Commission shall receive such remuneration as the President may by order determine and shall hold office for a term of five years and may on the expiry of such term be re-appointed for another term of five years.

(4) It shall be the duty of the Commission to perform the functions conferred on the Commission by this Chapter or by any other law for the time being in force and to give advice to the Federal Government upon such financial matters or to perform such other duties of a financial character as may from time to time be referred or assigned to it by the President.

(5) The Commission shall determine its procedure and shall have such powers in the performance of its functions as the President may by order confer on it.

202-B. Recommendations of the Finance Commission.—The President shall cause every recommendation made by the Finance Commission under the foregoing provisions of this Chapter together with an explanatory memorandum, as to the action taken thereon by the President to be laid before the Federal Parliament."

Clause 207.—To clause 207, add the following Explanation, namely:—

"Explanation.—For the purposes of this section, any undertaking by the Government of any unit, such as the sale of the forest produce of any forest under the control of such unit or of any article produced in any jail within such unit, shall not be deemed to be a trade or business, carried on by or on behalf of such Government."

Provisions relating to borrowing

Clause 210.—In sub-clause (3) of clause 210, for the word "Province" in the two places where it occurs, *substitute* the word "unit".

Ninth Schedule

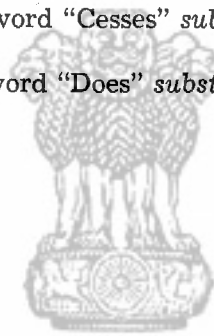
Provincial Legislative Lists.

In the Provincial Legislative List in the Ninth Schedule—

- (1) in entry 43, *omit* the words "hearths and windows";
- (2) for entry 50, *substitute* the following, namely:—

"50. Taxes on the sale, turnover or purchase of goods including taxes in lieu thereof on the use or consumption within the Province of goods liable to taxes within the Province on sale, turnover or purchase; taxes on advertisement;"

- (3) In entry 53, for the word "Cesses" *substitute* the word "Taxes"; and
- (4) in entry 56, for the word "Does" *substitute* the word "Taxes".



सत्यमेव जयते

REPORT OF THE DRAFTING COMMITTEE

New Delhi, 21st February, 1948.

To

THE HON'BLE THE PRESIDENT OF THE CONSTITUENT ASSEMBLY
OF INDIA, NEW DELHI.

DEAR SIR,

Introductory.—On behalf of the Drafting Committee appointed by the resolution of the Constituent Assembly of August 29, 1947, I submit herewith the Draft of the new Constitution of India as settled by the Committee.

Although I have been authorized to sign the Draft on behalf of the members of the Committee, I should make it clear that not all the members were present at all the meetings of the Committee. But at every meeting at which any decision was taken the necessary quorum was present and the decisions were either unanimous or by a majority of those present.

In preparing the Draft the Drafting Committee was of course expected to follow the decisions taken by the Constituent Assembly or by the various Committees appointed by the Constituent Assembly. This the Drafting Committee has endeavoured to do as far as possible. There were however, some matters in respect of which the Drafting Committee felt it necessary to suggest certain changes. All such changes have been indicated in the Draft by underlining or side-lining the relevant portions. Care has also been taken by the Drafting Committee to insert a footnote explaining the reasons for every such change. I however think that, having regard to the importance of the matter, I should draw your attention and the attention of the Constituent Assembly to the most important of these changes.

2. *Preamble.*—The Objectives Resolution adopted by the Constituent Assembly in January, 1947, declares that India is to be a Sovereign Independent Republic. The Drafting Committee has adopted the phrase Sovereign Democratic Republic, because independence is usually implied in the word "Sovereign", so that there is hardly anything to be gained by adding the word "Independent". The question of the relationship between this Democratic Republic and the British Commonwealth of Nations remains to be decided subsequently.

The Committee has added a clause about fraternity in the preamble, although it does not occur in the Objectives Resolution. The Committee felt that the need for fraternal concord and goodwill in India was never greater than now and that this particular aim of the new Constitution should be emphasised by special mention in the preamble.

In other respects the Committee has tried to embody in the preamble the spirit and, as far as possible, the language of the Objectives Resolution.

ARTICLE 1.

3. *Description of India.*—In article 1 of the Draft, India has been described as a Union of States. For uniformity the Committee has thought

it desirable to describe the Units of the Union in the new Constitution as States, whether they are known at present as Governors' Provinces, or Chief Commissioners' Provinces or Indian States. Some difference between the Units there will undoubtedly remain even in the new Constitution; and in order to mark this difference, the Committee has divided the States into three classes: those enumerated in Part I of the First Schedule, those enumerated in Part II, and those enumerated in Part III. These correspond respectively to the existing Governors' Provinces, Chief Commissioners' Provinces and Indian States.

It will be noticed that the Committee has used the term Union instead of Federation. Nothing much turns on the name, but the Committee has preferred to follow the language of the preamble to the British North America Act, 1867, and considered that there are advantages in describing India as a Union although its Constitution may be federal in structure.

ARTICLES 5 & 6.

4. *Citizenship*.—The Committee has given anxious and prolonged consideration to the question of citizenship of the Union. The Committee has thought it necessary that, in order to be a citizen of the Union at its inception, a person must have some kind of territorial connection with the Union whether by birth, or descent, or domicile. The Committee doubts whether it will be wise to admit as citizens those who, without any such connection with the territory of India, may be prepared to swear allegiance to the Union; for if other States were to copy such a provision, we might have within the Union a large number of persons who, though born and permanently resident therein, would owe allegiance to a foreign State. The Committee has, however, kept in view the requirements of the large number of displaced persons who have had to migrate to India within recent months, and has provided for them a specially easy mode of acquiring domicile and, thereby, citizenship. What they have to do (assuming that they or either of their parents or any of their grand-parents were born in India or Pakistan) is—

- (a) to declare before a District Magistrate in India that they desire to acquire a domicile in India, and
- (b) to reside in India for at least a month before the declaration.

ARTICLES 7 TO 27.

5. *Fundamental Rights*.—The Committee has attempted to make these rights and the limitations to which they must necessarily be subject as definite as possible, since the courts may have to pronounce upon them.

ARTICLE 59.

6. *Powers of the President of Union*.—The Committee has considered it desirable to provide that the President should have power to suspend, remit or commute death sentences passed in an Indian State, as in other Units, without prejudice to the powers of the Ruler.

ARTICLE 278.

It will be remembered that the new Constitution empowers the Governor, in certain circumstances, to issue a proclamation suspending certain provisions of the Constitution; he can do so only for a period of two weeks and is required to report the matter to the President. The Committee has provided that upon receipt of the report the President may either revoke the proclamation or issue a fresh proclamation of his own, the effect of which will be to put the Central Executive in the place of

the State Executive and the Central Legislature in the place of the State Legislature. In fact, the State concerned will become a centrally administered area for the duration of the proclamation. This replaces the "Section 93 regime" under the Act of 1935.

ARTICLE 60.

7. *Executive Power in respect of Concurrent List subjects.*—Under the present Constitution, executive authority in respect of a Concurrent List subject vests in the Province subject in certain matters to the power of the Centre to give directions as to how the executive authority shall be exercised, *vide* Parts I & II of the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. In the Draft Constitution the Committee has departed slightly from this plan and has provided that the executive power shall vest in the Province (now called the State) "save as expressly provided in this Constitution or by any law made by Parliament". The effect of this saving clause is that it will be open to the Union Parliament under the new Constitution to confer executive power on Union authorities, or, if necessary, to empower Union authorities to give directions as to how executive power shall be exercised by State authorities. In making this provision the Committee has kept in view the principle that executive authority should for the most part be co-extensive with legislative power.

ARTICLE 67.

8. *Composition of the Council of States.*—According to a decision taken by the Constituent Assembly, the Council of States was to contain not more than 25 members (out of a total not exceeding 250) to be elected from panels or constituencies on a functional basis. The panel system having hitherto proved unsatisfactory in the country from which it was copied (Ireland), the Committee has thought it best to provide for 15 members to be nominated by the President for their special knowledge or practical experience in Literature, Art, Science, etc. The Committee considers that no special representation for labour or commerce and industry among these nominations is necessary, in view of the fact that they are certain to be adequately represented in the elected element of the Union Parliament owing to adult suffrage.

ARTICLES 68 & 151.

9. *Duration of Union Parliament and of State Legislatures.*—The Committee considers that under the parliamentary system, particularly at the beginning of a new Constitution on the basis of adult suffrage, a longer term than four years is desirable. New ministers require some time to acquaint themselves with the details of administration, and their last year of office is usually taken up in preparing for the next general election. With a four-year term they will not have enough time for any kind of planned administration.

ARTICLES 107 & 200.

10. *Supreme Court and High Courts.*—Following the practice prevailing in the United Kingdom and the United States of America, the Committee has proposed that in certain circumstances retired judges may be invited to serve in particular cases both in the Supreme Court and in the High Courts.

ARTICLE 131.

11. *Mode of selection of Governors.*—Some members of the Committee feel that the co-existence of a Governor elected by the people and a Chief

Minister responsible to the Legislature might lead to friction. The Committee has therefore suggested an alternative mode of appointing Governors: the Legislature should elect a panel of four persons (who need not be residents of the State) and the President of the Union should appoint one of the four as Governor.

ARTICLE 138.

12. *Deputy Governors.*—The Committee has not thought it necessary to make any provision for Deputy Governors, because a Deputy Governor will have no function to perform so long as the Governor is there. At the Centre, the position is different, because the Vice-President is also the *ex-officio* Chairman of the Council of States; but in most of the States there will be no Upper House and it will not be possible to give the Deputy Governor functions similar to those of the Vice-President. There is a provision in the Draft enabling the Legislature of the State (or the President) to make necessary arrangements for the discharge of the functions of the Governor in any unforeseen contingency.

ARTICLES 212 TO 214.

13. *Centrally administered areas.*—In accordance with a resolution of the Constituent Assembly, you, as the President, appointed a Committee of seven members for the purpose of recommending constitutional changes in the centrally administered areas namely, Delhi, Ajmer-Merwara, Coorg, Panth Piploda and the Andaman and Nicobar Islands. The Committee submitted its report on October 21, 1948. The Committee's recommendations were briefly these:—

- (1) Each of the provinces of Delhi, Ajmer-Merwara and Coorg should have a Lieutenant-Governor appointed by the President of India.
- (2) Each of these provinces should normally be administered by a Council of ministers responsible to the Legislature.
- (3) Each of these provinces should have an elected Legislature.

As regards Panth Piploda the Committee recommended that it should be added to Ajmer-Merwara and as regards the Andaman and Nicobar Islands the Committee recommended that they should continue to be administered by the Government of India as at present, with such adjustments as might be deemed necessary: in other words, these Islands were to continue as a Chief Commissioner's province. The member representing Ajmer-Merwara and the member representing Coorg on this Committee appended a note to the Committee's report, in which they said that the special problems arising out of the smallness, geographical position and scantiness of resources of these areas might at no distant future necessitate the joining of each of these areas to a contiguous unit. They therefore urged that there should be a specific provision in the Constitution to make this possible after ascertaining the wishes of the people concerned.

So far as Delhi is concerned, it seems to the Committee that as the capital of India it can hardly be placed under a local administration. In the United States, Congress exercises exclusive legislative power in respect of the seat of the Government; so too in Australia. The Drafting Committee has, therefore, come to the conclusion that a more comprehensive plan than that recommended by the *ad hoc* Committee is desirable. Accordingly, the Drafting Committee has proposed that these central areas may be administered by the Government of India either through a Chief Commissioner or a Lieutenant-Governor or through the Governor or the

Ruler of a neighbouring State. What is to be done in the case of a particular area is left to the President to prescribe by order; he will, of course, in this, as in other matters, act on the advice of responsible ministers. He may, if so advised, have a Lieutenant-Governor in Delhi; he may, again, if so advised, administer Coorg either through the Governor of Madras or through the Ruler of Mysore after ascertaining the wishes of the people of Coorg. He may also by order create a local Legislature or a Council of advisers with such constitution, powers and functions, in each case, as may be specified in the order. This seems to the Drafting Committee to be a flexible plan which can be adjusted to the diverse requirements of the areas concerned.

The Committee has also provided that Indian States (such as those of the Orissa group) which have ceded full and exclusive authority, jurisdiction and powers to the Central Government may be administered exactly as if they were Centrally Administered Areas, i.e., through a Chief Commissioner, or Lieutenant-Governor, or through the Governor or the Ruler of a neighbouring State, according to the requirements of each case.

ARTICLES 216 TO 232.

14. *Distribution of Legislative Powers.*—For the most part, the Drafting Committee has made no change in the Legislative Lists as recommended by the Union Powers Committee and adopted by the Constituent Assembly, but I would draw attention to three matters in respect of which the Drafting Committee has made changes:

- (a) The Committee has provided in effect that when a subject, which is normally in the State List, assumes national importance, then the Union Parliament may legislate upon it. To prevent any unwarranted encroachment upon State powers, it has been provided in the Draft that this can be done only if the Council of States, which may be said to represent the States as Units, passes a resolution to that effect by a two-thirds majority.
- (b) The Committee has considered it desirable to put into the Concurrent List the whole subject of succession, instead of only succession to property other than agricultural land. Similarly, the Committee has put into the Concurrent List all the matters in respect of which parties are now governed by their personal law. This will facilitate the enactment of a uniform law for India in these matters.
- (c) While putting land acquisition for the purposes of the Union into the Union List and land acquisition for the purposes of a State into the State List, the Committee has provided that the principles on which compensation for acquisition is to be determined shall in all cases be in the Concurrent List, in order that there may be some uniformity in this matter.

In addition, in view of the present abnormal circumstances which require Central control over essential supplies, the Committee has provided that for a term of five years from the commencement of the Constitution, trade and commerce in, and the production, supply and distribution of, certain essential commodities as also the relief and rehabilitation of displaced persons shall be on the same footing as Concurrent List subjects. In adopting this course, the Committee has followed the provisions of the India (Central Government and Legislature) Act, 1946.

ARTICLES 247 TO 269.

15. *Financial provisions.*—Broadly speaking, the Drafting Committee has incorporated in the Draft the recommendations of the Expert Finance

Committee, except those relating to the distribution of revenues between the Centre and the States. In view of the unstable conditions which at present prevail in this field, the Drafting Committee has thought it best to retain the *status quo* in the matter of distribution of revenues for a period of five years, at the end of which a Finance Commission may review the situation.

ARTICLES 281 TO 283.

16. *Services*.—The Committee has refrained from inserting in the Constitution any detailed provisions relating to the Services; the Committee considers that they should be regulated by Acts of the appropriate Legislature rather than by constitutional provisions, as the Committee feels that the future Legislatures in this country, as in other countries, may be trusted to deal fairly with the Services.

ARTICLES 289 TO 291.

17. *Elections, Franchise, etc.*—The Committee has not thought it necessary to incorporate in the constitution electoral details including the delimitation of constituencies. These have been left to be provided by auxiliary legislation.

ARTICLE 304.

18. *Amendment of the Constitution*.—The Committee has inserted a provision giving a limited constituent power to the State Legislatures in respect of certain defined matters.

ARTICLES 292, 294 & 305.

19. *Safeguards for Minorities*.—The Draft embodies the decisions of the Constituent Assembly and of the Advisory Committee in respect of the reservation of seats in the Legislatures and of posts in the public services. Although these provisions do not extend to the Indian States, nevertheless, in the larger interests of India, the Indian States should adopt similar provisions for the minorities therein. The Drafting Committee has specially asked me to draw your attention to the importance of this matter.

FIRST SCHEDULE.

20. *Linguistic Provinces*.—I would invite special attention to Part I of the First Schedule and the footnote thereto. If Andhra or any other linguistic region is to be mentioned in this Schedule before the Constitution is finally adopted, steps will have to be taken immediately to make them into separate Governors' Provinces under section 290 of the Government of India Act, 1935, before the Draft Constitution is finally passed. Of course, the new Constitution itself contains provisions for the creation of new States, but this will be after the new Constitution comes into operation.

FIFTH AND SIXTH SCHEDULES.

21. *Scheduled Tribes, Scheduled Areas and Tribal Areas*.—The Committee has embodied in the Schedules to the Constitution the recommendations of the Sub-Committees on these subjects.

22. A separate note recorded by Shri Alladi Krishnaswami Ayyar on certain points (not involving any question of principle) is appended to the Draft at his request.

23. I cannot transmit to you this Draft Constitution without placing on record the Committee's gratitude for the assistance the Committee has received in this difficult task from Sir B. N. Rau, the Constitutional Adviser, Shri S. N. Mukerjee, Joint Secretary and Draftsman, and the staff of the Constituent Assembly Secretariat.

REPORT OF THE ADVISORY COMMITTEE ON THE SUBJECTS OF
NORTH EAST FRONTIER (ASSAM) TRIBAL AND EXCLUDED
AREAS AND EXCLUDED AND PARTIALLY EXCLUDED AREAS
(OTHER THAN ASSAM).

New Delhi, the 4th March, 1948.

From

THE HONOURABLE SARDAR VALLABHBHAI J. PATEL, CHAIRMAN,
ADVISORY COMMITTEE ON MINORITIES FUNDAMENTAL RIGHTS ETC.

To

THE PRESIDENT,
CONSTITUENT ASSEMBLY OF INDIA.

DEAR SIR,

On behalf of the members of the Advisory Committee I have the honour to forward herewith the reports of the North East Frontier (Assam) Tribal and Excluded Areas and Excluded and Partially Excluded Areas (Other than Assam) Sub-Committees, adopted by the Committee at the meeting held on the 24th February 1948. The two sub-Committees had been set up by the Advisory Committee in their meeting held on the 27th February 1947 in pursuance of paragraphs 19(iv) and 20 of the Cabinet Mission's Statement, dated the 16th May 1946 and the two reports had been drawn up after they had undertaken extensive tours of the provinces, examined witnesses and representatives of the people and the provincial governments and taken the views of the different political organizations.

2. Acting on an earlier suggestion of the Advisory Committee made on the 7th December 1947, the Drafting Committee had already incorporated in the Draft Constitution provisions on the basis of the recommendations contained in the reports of the two sub-Committees. This coupled with the fact that the recommendations were practically unanimous made our task easy, and except for the two amendments mentioned in the Appendix to this report, the Advisory Committee have accepted all the recommendations of the two sub-Committees. In regard to these amendments, it was agreed that these should be noted for the present and necessary amendments made later.

3. Summaries of the recommendations of the two sub-Committees are given on pages 208 to 218 of the report (Volume I) of Excluded and Partially Excluded Areas (Other than Assam) Sub-Committee. Provisions embodying these recommendations are contained in the Fifth, Sixth and Eighth Schedules attached to the Draft Constitution.

Yours truly,
V. J. PATEL,
Chairman.

APPENDIX

North East Frontier (Assam) Tribal and Excluded Areas

1. The following proviso is to be added to paragraph D(1) of appendix 'A' to Part I on page 20 of the report:—

“Provided that the Assam High Court shall have power of revision in cases where there is failure of justice or where the authority exercised by the District Court is without jurisdiction.”

2. In Schedule 'B' on page 23 of the report the words “excluding the plains portion” be added after each of the items in the schedule so as to read as follows:—

The Sadiya and Balipara Frontier Tracts (excluding the plains portion).

The Tirap Frontier Tract (excluding the Lakhimpur Frontier Tract and the plains portion).

The Naga Tribal Area (excluding the plains portion).



REPORT OF THE LINGUISTIC PROVINCES COMMISSION

To

THE HON'BLE THE PRESIDENT,
CONSTITUENT ASSEMBLY OF INDIA,
NEW DELHI.

SIR,

We, the Commissioners appointed for the purpose of inquiring into and reporting on the desirability or otherwise of the creation of the proposed Provinces of Andhra, Karnataka, Kerala and Maharashtra, and fixing their boundaries and assessing the financial, economic, administrative and other consequences in those Provinces and in the adjoining territories of India, beg to submit the following Report. It will be seen that our Report is unanimous and without a dissenting minute.



INTRODUCTION

2. By a notification dated June 17, 1948, we were appointed to report on the question of formation of the Provinces of Andhra, Kerala, Karnataka and Maharashtra; the financial, economic, administrative and other consequences thereof; and their approximate boundaries. The recommendation made by the Drafting Committee of the Constitution which led to our appointment, and our terms of reference are reproduced in Appendix I.

2A. Our first meeting was held on July 19, 1948, at Council House, New Delhi, when a questionnaire was settled and issued to the public. This is reproduced in Appendix II. During the last week of August a few witnesses were examined by us in New Delhi and in the beginning of September we started on a tour lasting twenty-six days, in which a large number of witnesses were examined at Vizagapatam, Madras, Mangalore, Calicut and Coimbatore. This was followed by another tour in the last week of October lasting over a fortnight in which also a very large number of witnesses were examined at Nagpur, Hubli, Poona and Bombay. Altogether about 1,000 written memoranda were received and the oral evidence of over 700 witnesses was recorded during the inquiry. The last meeting of the Commission, in which all the Associate members were also present for final consultation, was held in Council House, New Delhi, on November 20 and 21. This report was signed on 10th December 1948.

3. The inquiry thus made was a highly controversial one. On all the important issues, which required consideration, there were two sides and on some issues more than two. Yet there was no agreed presentation of the case even on behalf of any particular side and the individual variations in the case of each side unnecessarily lengthened the work and made it perplexing. There was this additional disadvantage that the Provincial Governments, who usually furnish disinterested and independent evidence in such inquiries, being, as at present constituted, composite Governments drawn from all parties to the controversy, decided to remain neutral and did not offer their usual co-operation. Nevertheless sufficient material came before us to enable us to form a definite opinion upon the essential merits of the controversy.

सत्यमेव जयते

CHAPTER I

The Linguistic Provinces

4. The existing provinces of Madras, Bombay, Central Provinces and Berar, and the Indian States of Hyderabad, Travancore, Cochin, Mysore and Kolhapur have within their borders extensive areas, in which a large majority of the people speak Tamil, Telugu, Malayalam, Kannada, Marathi, Gujarati or Hindi languages. These ancient languages are endowed with rich literature and the persons, who speak them, possess certain social or cultural characteristics, which distinguish them from their neighbours, who do not speak their language. At one time, in more or less distant past, the areas in which these languages were spoken bore other names and also formed sovereign states. Thus Andhra, Kerala, Karnataka, Maharashtra, Tamilnad and Gujarat are the ancient names of the areas and states in which Telugu, Malayalam, Kannada, Marathi, Tamil and Gujarati languages were respectively spoken. Vidarbha is the ancient name for modern Berar. But the geographical boundaries of these linguistic areas have not remained constant and history has recorded many changes in them. And these ancient names can now be applied only in a general way to the homelands of the people, who spoke these languages, or to areas now existing in which these languages are largely spoken.

5. The formation and growth of the existing provinces of India is a part of the general history of the rise to power of British dominion in this country. From small beginnings in the coastal towns of Calcutta, Bombay and Madras, the British rule went on expanding and adding territory after territory, which were transformed into administrative provinces without any rational or scientific planning. The provinces thus formed have resulted in bringing together under one administration people speaking different languages and occasionally they have also separated people speaking one language under different administrations. Yet these heterogeneous provinces have played an important part in building up Indian unity and in bringing together diverse elements to work in common, which but for them would have remained apart.

6. The British policy of integrating India underwent a change soon after the beginning of this century. For one reason or another thereafter the disintegration of provinces was taken in hand and the North-Western Frontier Province, Assam, Bihar, Sind and Orissa were successively carved out from the older provinces of which they formed parts. And both the Mont-Ford Report and Simon Report are at one in condemning the existing provinces and in advocating their re-formation on a linguistic basis.

7. The demand for linguistic provinces has an early association with the struggle for Indian independence. Since 1921 the Congress has discarded British administrative provinces for its work and has created provinces, many of which are more or less linguistic, though not all, e.g., Maharashtra, Vidarbha, Bombay, Ajmer etc. In 1928 the Nehru Report fully endorsed the Congress view and strongly emphasised the desirability of creating these linguistic Provinces. And since then the Congress has included in its election manifesto the formation of linguistic provinces as one item of its programme and various Congress legislatures have passed resolutions in support of the demand. And lastly on November 27, 1947, in the Constituent Assembly the Prime Minister on behalf of the Government accepted the principle underlying the demand for linguistic provinces.

8. But these pledges can only be redeemed in the set-up of new circumstances, which at present exist in this country. Indian nationalism is yet in its infancy. India has, in the words of its Prime Minister, just survived a major operation. It is in the midst of an undeclared war with Pakistan. It has still to settle its refugee problem and the problem of feeding its teeming millions and as a result of British withdrawal it is working and must work for some time to come with a depleted and over-strained administration. And, as if these anxieties were not sufficient, India is about to experiment under the new Constitution with autonomous states and adult franchise without the cementing force of a national language to take the place of English.

9. The evidence given before us is largely influenced by all or some of the considerations stated above. There is a general recognition that India should have a strong Centre and a national language. The evidence largely preponderates in favour of the view that the residuary powers must vest in the Centre, which must possess over-riding powers as well. On the question of national language the evidence is somewhat divided. The minority favours the retention of English or making Hindi take the place, which English now occupies; the majority, however, favours the mother-tongue being made the regional language with Hindi as a second language for inter-provincial purposes and English as a third language for foreign business and intercourse.

10. It is generally recognised that before any linguistic area can claim to be formed into a province it must satisfy certain tests and conditions and failure to comply with them would be a good ground for refusing the demand. The area needs to be geographically contiguous and it cannot be formed into a province with pockets and corridors of other languages intervening. Likewise it has to be financially self-supporting so as not to be a drag on the Centre for its subsistence. It should also be administratively convenient and should possess within itself capacity for future development. And within its own borders and amongst the people speaking the same language there must be a large measure of agreement in regard to the formation of the new province. And a new province cannot be forced by a majority upon a substantial minority of people speaking the same language.

11. Subject to the remarks made above the evidence given before us brings out two sharply conflicting views in regard to the formation of these linguistic provinces and the time and circumstances in which they should be formed.

12. The case for the formation of linguistic provinces rests upon two alternative grounds: upon the theory that these linguistic groups are sub-nations and as such contracting parties to the constitution from which the Federation and the Centre derive their existence and power; alternatively it rests upon the unwieldy size of the existing provinces, their heterogeneous composition and the administrative advantage, which may result from bringing together people speaking one language, in imparting education and in the working of courts, legislatures, governmental machinery and democratic institutions.

13. The case against the formation of these linguistic provinces rests upon the intolerance which they breed against the minority speaking a different language in the same province, the inter-provincial isolation and antagonism which they bring into existence, the parochial patriotism which they emphasise as against the growth of the nascent national feeling and lastly the bitterness which is likely to be generated as a result of marking

off the boundaries of these provinces between rival claimants and the allotment of the capital cities of Madras and Bombay.

14. The arguments in favour of the immediate formation of linguistic provinces are that on account of Congress pledges the demand has got deep down into the masses and its postponement is creating bitterness, impatience and frustration and the country cannot settle down to constructive work till the demand is conceded, and that the Constitution will start on a faulty basis without the linguistic provinces being put in its Schedule.

15. The arguments in favour of its postponement are that the country is not yet free from the dangers of external aggression, that it is in the grip of an economic crisis of great magnitude, that Indian States have not yet been properly integrated, that the Government is pre-occupied with more urgent problems, that the country cannot at this moment bear the financial and administrative strain which these new provinces will put upon it, and that it does not possess the necessary peaceful atmosphere in which new provinces can be scientifically and properly planned and a new map of India rationally drawn up.



सत्यमेव जयते

CHAPTER II

The Linguistic Areas and their Boundaries

ANDHRA

16. The geographically contiguous area, which is claimed as Andhra Desh and in which Telugu is alleged to be largely spoken, is a long and wide stretch of country bounded on the east by the Bay of Bengal, on the west by Hyderabad and Mysore States, on the north by Central Provinces and Orissa and on the south by the Tamil portion of Madras called Tamilnad. It comprises eight districts of Hyderabad, one district and one town of Mysore, eleven districts of North Madras, the city of Madras and portions of three districts of South Madras or Tamilnad, and portions of two districts of Central Provinces, and one entire district and a portion of another district of Orissa. But this Andhra Province can only be and is a distant ideal as it is generally conceded that the breaking up of Indian States or their territory for the present is not a matter of practical politics.

17. The Andhra, which is claimed as capable of immediate realisation, comprises eleven districts of north Madras, (1) Vizagapatam, (2) East Godavari, (3) West Godavari, (4) Kistna, (5) Guntur, (6) Bellary, (7) Anantpur, (8) Cuddapah, (9) Kurnool, (10) Nellore, and (11) Chittoor, with the city of Madras, and portions of the three Tamil districts of Chingleput, North Arcot and Salem in south Madras and with the southern portions of Chanda and Bastar in C. P. and with Koraput district and a portion of Ganjam district in Orissa on the north. This includes roughly an area of 86,000 square miles and a population of 20 millions, but it excludes about 10 million Telugus living in Hyderabad and Mysore States and 4 to 5 millions in Tamilnad.

18. The eleven districts of North Madras, which would go to form the proposed Andhra Province, are divided into two groups of five districts each, called Coastal districts and Rayalaseema, with the eleventh district of Nellore, more allied to Rayalaseema but partaking of the characteristics of both the groups. The five Coastal districts, also called Delta districts viz., Vizagapatam, East Godavari, West Godavari, Kistna and Guntur, are economically, educationally and politically more advanced. They are the surplus districts of the province in food-grains. They contain the only University and Medical College of Telugu people and all important political thought and leadership of the Telugus emanate from this Centre. The Rayalaseema, which comprises the four Ceded districts of Bellary, Anantpur, Cuddapah and Kurnool, and Chittoor are backward districts with undeveloped natural resources and often harassed by famine. They are also largely bilingual districts under the influence of Kannada and Hindustani on the borders of Mysore and Hyderabad and Tamil on the borders of Tamilnad. In manners, customs, traditions and general outlook on life also the two groups differ and, in a general way, though in a less intensified form, the distrust and apprehension of domination and exploitation, which exist in a Telugu mind against the Tamil, find their counterpart in the Rayalaseema mind against the Coastal districts.

19. In order to secure the co-operation of Rayalaseema in the formation of the proposed province of Andhra an agreement was made between

Rayalaseema and the Ceded districts by which certain concessions were made to Rayalaseema in regard to its development, its voting strength in the legislature and facilities for University education. This agreement, which is dated November 16, 1937, is popularly known as Sri Bagh Pact and is reproduced in Appendix III. According to this agreement Rayalaseema has a right to demand equal seats in the legislature, to secure priority for its irrigational schemes and to have the choice of locating the High Court or the Capital within its borders and to have a University centre at Anantpur. Eleven years have passed since this pact was signed, but the differences between the Coastal districts and Rayalaseema still remain unbridged and the pact still stands as a witness to these differences and to the failure to settle them.

20. A great deal of controversy exists as to the present attitude of Rayalaseema in regard to the formation of the proposed Andhra province. A statement was produced before us signed by twenty out of twenty-five Rayalaseema M.L.As. in which the demand for a separate province was opposed as being wholly misconceived and inopportune and its acceptance, if unavoidable, was made conditional upon the literal enforcement of the Sri Bagh Pact. Three of these signatories later on appeared before us, withdrew their uncompromising opposition and showed willingness to accept the demand if made conditional upon the enforcement of the Pact.

21. There can be no doubt that one section of Rayalaseema opinion is definitely opposed to the formation of the proposed Andhra province. The Rayalaseema districts being mostly bilingual, this section does not want these to be broken up into Kannada, Tamil, and Telugu areas. Rayalaseema being close to Madras it does not want to be cut away from that city. Rayalaseema being educationally, politically and economically backward, it apprehends coastal domination and exploitation in services, legislatures, and in developmental schemes. And altogether it sees a better chance for the future development of Rayalaseema in an undivided Madras than in a divided Madras after the separation of Andhra, Kerala, etc.

22. Equally clearly another section of Rayalaseema opinion is willing to throw in its lot with the Coastal districts in forming the new province; it is prepared to take the risk even if the Sri Bagh Pact is not enforced. It considers its power will be more effective in a smaller and divided province than in a larger and undivided one.

23. We are not in a position to judge the relative strength of these opinions, nor is it necessary to do so. It must, however, be accepted that, in 1937, when the Sri Bagh Pact was made, Rayalaseema was not willing to form a separate Andhra province except on certain terms and conditions incorporated in the Pact. It was conceded before us by the leaders of the Coastal districts that the Sri Bagh Pact still stood and that they were prepared to honour it and to give it a statutory force. It follows, therefore, that if for any reason a statutory guarantee cannot be given to Rayalaseema in regard to the Pact, the consent of Rayalaseema in regard to the formation of the new province would remain wanting.

24. One section has asked us to hold on the evidence given before us that, even if the Pact cannot be enforced, Rayalaseema is willing to trust the Coastal districts and is prepared to form the province without the Pact. But we find ourselves unable to do so, because this controversy in our opinion can only be set at rest by a plebiscite or by an election issue and cannot be satisfactorily determined by a tribunal upon statements made before it by a few witnesses of each side.

25. Some of the Coastal leaders have asked us to recommend that Government might bring about reconciliation between the two groups so

that the new province could be formed by consent. The terms of the Pact cannot be fitted into the Draft Constitution and are unlikely to be enforceable under any new Constitution which we can foresee. What steps the Government can take to bring about the compromise we do not know. We ourselves tried to effect a compromise but failed. It is possible that the Government may succeed where we failed and we gladly bring the matter to their notice. But till such an agreement is reached, the conclusion is inevitable that a substantial section of Rayalaseema is opposed to the formation of Andhra province and one essential condition for the creation of such a province is wanting.

26. It is also not quite easy to mark off the boundaries of the proposed Andhra Province. On the south, west and north some of its areas are claimed by Tamilnad, Karnataka and Orissa respectively, and Andhra, in its turn, claims in these directions certain areas from those claimants as also from the Central Provinces. These disputed areas are markedly bilingual and it is not an easy matter to break them into parts and to allot them to separate linguistic areas. First of all, the language and race statistics of these areas are not available beyond the census of 1931 and even in regard to the correctness of 1931 figures there is some justifiable controversy. Secondly, it will require extensive labour and investigation to locate those areas, which are geographically contiguous, and which, with due regard to administrative convenience, could be broken up and attached to any new province.

27. The Andhra-Orissa dispute on the north has a special feature of its own. It was once the subject of an inquiry by the Government and was settled, but the settlement did not satisfy either party and the dispute still persists and is likely to continue.

28. The province of Orissa, as it exists today, includes two districts of Ganjam and Koraput, which adjoin and are to the north of the Andhra district of Vizagapatam. These two districts at one time formed parts of Ganjam and Vizagapatam districts, respectively, of the province of Madras and were border districts between old Orissa and Madras and were largely bilingual having a large population of Oriyas and Telugus.

29. When the Government decided to form an independent province of Orissa it also decided to separate Oriya and Telugu areas of old Ganjam and Vizagapatam districts and to bring the Oriya areas into Orissa and the Telugu areas into Madras, and for this purpose a Boundary Commission was appointed, which is known as O'Donnel Commission after the name of its President. On the basis of the Report of this Commission, with certain important modifications, the Orissa Order in Council of 1936 was made as a result of which very large portions of the old Ganjam district and the Agency tract of Vizagapatam district were transferred to Orissa and came to be known as Ganjam and Koraput districts of Orissa province. The remaining portion of the old Ganjam district, which was not separated from Madras, is now incorporated in Vizagapatam district.

30. The Telugus now claim back from the Ganjam district of Orissa a coastal belt about forty miles long and ten to fifteen miles broad by the side of the Bay of Bengal, which includes the sea-coast towns of Gopalpur and Chatarpur and the inland town of Berhampur and the area shown as Berhampur B and Chatarpur B and south-eastern portion of Chikiti and Jarda Zamindari in O'Donnel's Report. They further claim the plains portion of the Parlakimedi Estate, including the town of Parlakimedi, and the entire Koraput district, which comprises the Jeypore impartible estate and Pottangi taluk of O'Donnel's Report.

31. The Oriyas, on the other hand, claim back from the Telugus a small south-eastern corner of Berhampur B and Sompeta B and Tekkali taluk of O'Donnel's Report from the old Ganjam district, which are now included in Vizagapatam district, and portions of Palakonda, Paravatipur, Salur, Viravalli, Srungavarapukota Agencies and portions of Gunipur (Kunrupam estate) and Padwa B (Hill Magdole estate) of O'Donnel's Report, which was formerly and even now included in the Agency portion of Vizagapatam district.

32. The Orissa claim against Andhra is not included in our terms of reference and the Andhra claim against Orissa, though covered by the reference, cannot be properly considered as the Orissa Government has not been associated with this inquiry and no Associate member from Orissa has worked with us. We are not in a position to check the truth of the charges of maltreatment, which the Telugu minority has levelled against Orissa, nor do we know what changes have come about in the ratio of population and in administration in these two districts since they were separated from Madras in 1936. One thing, however, is certain that the Telugus, who have been transferred to Orissa, are very unhappy and their condition is the best illustration of the spirit of intolerance, which Linguistic Provinces breed and of the danger which lurks behind them.

33. The Telugus also claim in the north some portions of Chanda and Bastar in the Central Provinces, the latter being also counter-claimed by Orissa and Maharashtra. In the south Tamilnad claims some Taluks from the Chittoor district of Andhra, and the latter claims some Taluks from Chingleput, North Arcot and Salem districts of Tamilnad. The southern boundary of Andhra affects the city of Madras and, if the southern line is drawn according to the Telugu claim, the city of Madras falls within the Telugu area and, if it is drawn according to Tamil claims, the city falls in Tamil area.

34. In the west of Andhra the boundary dispute is between Karnataka and Andhra in regard to the districts of Bellary, Anantpur and Kurnool. Many years ago Congress had given an Award, which is generally known as Kelkar's Award, by which the three Taluks of Adoni, Alur and Rayadurg of Bellary were allotted to Andhra and the remaining portion of the district of Bellary, including the town of Bellary, was allotted to Karnataka. But neither party is satisfied with the Award and lays claim to the entire district or a greater portion of it. Karnataka also claims portions of Anantpur and Kurnool districts.

35. These disputes were presented before us with the idea that we might recommend them for determination by a Boundary Commission, which is contemplated in the terms of reference by which we were appointed. No attempt was made to place facts and figures before us upon which a satisfactory decision could be reached in regard to these disputed matters and within the time at our disposal it was not possible for us by our own independent investigation to come to any satisfactory finding, so that they must stand over for the present. But they clearly emphasise the difficulty which lies ahead in forming linguistic provinces, and the heat and controversy, which they will generate and the time and trouble which will be necessary for undertaking this work.

36. The eastern boundary of the proposed province of Andhra is the Bay of Bengal. Its western boundary is in dispute and may be a line drawn through Bellary and Anantpur districts outskirting Mysore State till it touches the southern boundary of Andhra, which also is disputed, or may be a curved line starting from Pulicut Lake in the east or from foot of Chingleput district and traversing through Chittoor, Chingleput, North

Arcot and Salem districts. The northern boundary is also in dispute and may be the present boundary of Orissa and Central Provinces or it may be a line drawn from some point near Rishikulya River in Orissa up to the south of Indrawati in Central Provinces curving through portions of present Ganjam and Koraput districts of Orissa and of Bastar and the Chanda district of Central Provinces as the future Boundary Commission may decide.

KERALA

37. The geographically contiguous area in which Malayalam language is largely spoken is a narrow strip of country on the Western Coast of India lying between Cape Comorin on the south and North Kanara on the north and the Arabian Sea on the west and the Western Ghats on the east. And it comprises the Indian States of Travancore and Cochin and the Malabar district of Madras Province, Kasargod Taluk of South Kanara district and Gudalur of Nilgiri district. It also includes the small French Settlement of Mahe and two Union islands, Lacadive and Amandive, as also Anjengo, including Thankasseri on the Travancore Coast, now part of Tinnevely district. It roughly occupies an area of 21,000 sq. miles and is inhabited by 13 million people.

38. At one time there was a strong movement afoot to bring this area under one administrative province called United Kerala. Recently this movement has received a set-back and it is not for us to say whether it is temporary or permanent. The movement undoubtedly represents the aspirations of a large number of Malayalam people, and if it cannot immediately fructify it is only because Travancore and Cochin States are not yet fully ready to join it. This has brought into existence another proposal for the formation of a smaller Kerala province without Travancore, Cochin and Mahe, but with the Union areas stated above with the addition of Coorg, the Tulu taluks of South Kanara and the Ootacamund taluk of Nilgiris, west of the watershed of the Ghats. It is claimed that this province roughly gives an area of 8,500 sq. miles with a population of four million and eight hundred thousand people.

39. As to the formation of this smaller province there exist two opinions in Malabar. One opinion does not regard this province as practicable and will wait till Travancore and Cochin are ready to join it. The other opinion favours the formation of an immediate smaller province to be expanded later on when Cochin and Travancore are ready to merge in it.

40. The larger province or United Kerala is not immediately practicable on account of the want of consent of Travancore and Cochin States. Apart from the difficulty of uniting two viable autonomous Indian States with Union districts, the Travancore State is burdened with a Tamil problem in its southern territory, which may become troublesome in the event of the formation of a Malayalam linguistic province. The process of unification of Kerala will, therefore, require both time and some difficult adjustment and must wait.

41. The smaller province has not been sufficiently canvassed to elicit that amount of public support, which is necessary for the formation of a new province. Its advocates desire to bring it into existence not strictly on linguistic grounds but as a matter of administrative convenience. It is said that Malabar is an over-populated district at the tail-end of Madras, deficit in food grains, neglected and undeveloped in the warring politics of Andhra and Tamilnad and unable to secure its rights or its development in the United Madras. It is claimed that a maritime province between the Arabian Sea and the Ghats comprising the Union districts of Malabar,

South Kanara, Coorg, Nilgiris, and portions of Coimbatore will be linguistically compact and culturally homogeneous and administratively convenient.

42. But such a province does not fall within the ambit of a linguistic province, which we are required to consider. Coorg, South Kanara, Nilgiris and Coimbatore are hotly contested linguistic areas claimed by Karnataka and Tamil-Nad. And it is not possible in this inquiry to dispose of them on purely non-linguistic considerations. It is not disputed that the proposed area standing by itself, cannot support a Province on principles, which are universally accepted, and that the question of formation of Kerala Province without Travancore and Cochin can only arise when Andhra or Karnataka or both are separated from Madras leaving Malabar attached to Tamil-Nad. Even then a one-district province is hardly a practicable proposition and must be rejected on financial and administrative grounds.

KARNATAKA

43. The present homeland of the Kannada language is Mysore State and the Union districts of Dharwar and Bijapur, where it is spoken by seventy to eighty per cent. of the people. But Kannada is also the majority language of two other Bombay districts, viz., North Kanara and Belgaum, and of one Madras district, viz., Bellary, where it is the language of 54.9, 64.6, and 55.0 per cent. of the people respectively. Kannada is also the majority language in some of the merged Deccan States, in some portion of Kolhapur State, in the small State of Sandur, and in some taluks or portions of taluks of two Union districts of Bombay, viz., Satara and Sholapur, and of six districts of Madras, namely, South Kanara, Nilgiris, Coimbatore, Anantpur, Salem and Kurnool, and of the small province of Coorg and lastly of three districts of Hyderabad State. The area specified above is sufficiently large and populous to make a well-sized province. But it is not an easy matter to make it.

44. Almost half the Kannada-speaking people live in Mysore State. More than half are to be found in Mysore, Sandur, Hyderabad, Kolhapur and the merged Deccan States and the province of Coorg. And the remaining population, which is to be found in the Indian Union outside the autonomous State, is split up in the three provinces of Bombay, Madras and Coorg. And the Madras districts of South Kanara and Bellary are separated by long distances from each other and impassable rivers and mountains from the Kannada-speaking districts of Bombay.

45. If Mysore had been willing to join the Union it could easily have formed a nucleus round which the Kannada-speaking districts of Madras and Bombay could be brought together and reared into an administratively convenient Province. It would have also solved the problem of the small province of Coorg, which has been carrying on a difficult and isolated existence and which is ready to merge in Mysore State but is not prepared to merge in Karnataka province composed exclusively of Union areas. But the Mysore State does not appear to be yet ready to merge itself in Karnataka Province and we cannot say whether public opinion or Government policy is prepared to merge Union territory in the Indian States.

46. If a Karnataka Province is to be formed by piecing together Kannada-speaking merged Indian States and the Province of Coorg and the Kannada-speaking districts of Bombay and Madras it will have to face enormous difficulty. More than half the merged Deccan States are predominantly Maharashtrian. The districts of North Kanara and Belgaum in Bombay contain strong Maharashtrian minorities. In the South Kanara

district of Madras Kannada is spoken only by 17·8 per cent. of the people and in Bellary district Telugu population is over thirty per cent. mostly concentrated in the taluks of Adoni, Alur and Raydrug.

47. South Kanara, Coorg and Nilgiris present difficult problems. In South Kanara the northern taluk Coondupur is predominantly Kannada and the southern taluk Kasargod is predominantly Malayalee. The middle taluks are Tulu-speaking, Tulu being the dialect of over forty per cent. people. In Coorg out of a total population of one lakh and sixty-three thousand (163,000), forty-four thousand five hundred and eighty-five (44,585) are Coorgies and Nilgiris has a strong element of Badaga population. All these three areas are counter-claimed by Malayalees and one of these, viz., Nilgiris, by Tamils also. And though it is true that Kannada is the Court language of South Kanara and of Coorg it will not be an easy matter to divide these areas on a linguistic basis without taking into account the wishes of the Tulus, Coorgies and Badagas. These areas adjoin Mysore as also Malabar but their greatest affinity is with Mysore and it is not easy to say whether without Mysore they would like to merge in a Karnataka province or not.

48. Confined to Union territory, in two districts of Bombay alone, viz., Dharwar and Bijapur, the Kannada language has got an absolute majority. In two other districts of Bombay, viz., North Kanara and Belgaum, and in one district of Madras, viz., Bellary, and the Province of Coorg it has only got a bare majority, while in the remaining districts of Bombay and Madras it can lay claim only to some Taluks and small portions of some Taluks. And the greatest difficulty in the matter is that it will not be administratively convenient to bring together under one administration Bellary and South Kanara districts or the Kannada portions of Coimbatore, Nilgiris and Salem district of Madras or these Madras districts and the Kannada-speaking districts of Bombay, as some of these districts will be inaccessible to each other without the help and intervention of Mysore State.

MAHARASHTRA

49. The province of Maharashtra, as visualised by its advocates, will have an area of 13,34,66 sq. miles, with a population of 2,86,17,607 and a revenue of Rs. 37,45,14,000. It will comprise twelve districts of the existing Bombay province, eight districts of C. P. & Berar, some areas from the border districts of Belgaum, North Kanara, Nimar, Chhandwara and Balaghat, portions of seventeen merged Deccan States and of the merged State of Bastar, the Kolhapur State, five districts of Hyderabad State, and the Portuguese possession of Goa. Geographically, this new province will be divided into two regions of eastern and western Maharashtra, and will unify the three historic and ancient territories of Konkan, Desh or Deccan, and Vidarbha.

50. Desh or Deccan, which includes the seven above-the-ghat districts of Nasik, Poona, Satara, Sholapur, Ahmednagar, and East and West Khandesh, is the homeland of Marathi language and culture and has a homogeneous political outlook and aspiration. Konkan, which includes below-the-ghat taluks of Thana district, Bombay City and suburban districts, Ratnagiri and Colaba and extends up to South Kanara, has a dialect of its own called Konkani. The central portion of Konkan, like Ratnagiri and Colaba, has not become thoroughly Maharashtrian in political outlook, language and culture. But its northern portion comprising coastal taluks of Thana, Bombay City and suburbs and the southern portion comprising North Kanara and Goa, still retain some of their special characteristics and are not yet fully ready to be assimilated. In the four districts of Berar, namely Akola, Amraoti, Buldana, and Yeotmal,

which in some way correspond to ancient Vidarbha, and the four Marathi districts of C.P., namely, Nagpur, Bhandara, Chanda, and Wardha—all the eight passing under the name of Mahavidharbha—is spoken the Marathi language; but, for generations, the people here have lived a separate life of their own, which has given them characteristics and outlook different from Deccan Maharashtra.

51. The movement for the unification of Maharashtra is of very recent growth, and has not yet gained sufficient momentum to become a mass movement or to produce a substantially agreed demand. The Marathas are an able and virile people, and an invaluable asset to the Hindu race and culture. They form 53 per cent. of the population in the province of Bombay, and 35 per cent. in the province of C. P. & Berar, and are able to hold their own in any struggle for political power. But, unfortunately, the Poona school of thought, which is also the dominant school of thought in Maharashtra, does not see eye to eye with the rest of India as to the future destiny of this country or with regard to the part which Indian provinces should play in the evolution of the Indian nation; and the desire for a Samyukta Maharashtra is the natural expression of their ideology, and the real or imaginary apprehensions of Gujarat and Mahakoshal domination are its natural allies.

52. Of all the units which will go to form a Samyukta Maharashtra, Mahavidarbha was the first to come into the field with a claim for a separate province of its own. This movement arose in Berar and was mainly sponsored as a counter-claim against the claim of the Nizam to absorb Berar in Hyderabad.

53. In August 1947, the political leaders of Berar and Deccan came to an agreement, commonly called the Akola Pact, reproduced in Appendix IV, by which it was contemplated to bring into existence a United Maharashtra with two sub-provinces of Vidarbha and Desh, with a further provision that, if a united Maharashtra was not capable of realisation, the province of Vidarbha alone might be formed. Under the impact of the movement for Samyukta Maharashtra, this Akola Pact has now been torn asunder and is disowned by all parties; and there are at present three schools of thought in Mahavidarbha in regard to its future. One wants a separate province of Mahavidarbha, the other is for making it a sub-province of a United Maharashtra, and the third is for complete merger with Maharashtra; but all desire to terminate the present relationship with Mahakoshal. We are satisfied that public opinion is still in the formative stage in Vidarbha and it does not yet know its own mind. In these circumstances it will not be possible to form a province of Maharashtra with Vidarbha.

54. Konkan, the second unit of Samyukta Maharashtra, presents a still more formidable difficulty in the way of unification of Maharashtra. The heart of Konkan is the city and port of Bombay, the gateway of India and in many ways its pride and its industrial and money market. Bombay is cosmopolitan, and multi-lingual, and a discussion regarding its future we have reserved for a separate chapter. It refuses by a large majority of interests to fit into any linguistic province, and another sizeable portion of Konkan area, which has not yet been thoroughly Maharashtrianised, is dreaming of a province of its own and is not yet ready to walk into a Maharashtrian hegemony.

55. We are thus left with Desh, which no doubt whole-heartedly supports the movement for the unification of Maharashtra, and for this it has enunciated certain principles, which we find difficult to accept. One of these principles is that the entire territory of Samyukta Maharashtra is inviolate. The other is that all the groups speaking one language, irrespective of their special problems and individualities, must be welded

together, thus leaving Bombay and Mahavidarbha no option in the matter of choosing their destiny. We do not think any linguistic majority has any right to force a province upon such substantial minorities as those of Vidarbha and Bombay in Maharashtra, and of Rayalaseema in Andhra.

56. It might be possible to form two separate Marathi speaking provinces, viz., (1) Mahavidarbha comprising eight districts from C.P.; and (2) The Deccan consisting of eleven districts from Bombay. The demand for the formation of Mahavidarbha is, however, strenuously opposed by the advocates of Samyukta (United) Maharashtra. Opinion in Mahavidarbha has not yet quite crystallized; one section wants a United Maharashtra, another a Sub-Province in Maharashtra, the third an altogether separate province. In these circumstances, it will not be safe to embark upon the formation of any Marathi speaking province at present.

THE CITY OF BOMBAY

57. The city of Bombay stands in special relation to Maharashtra, Gujarat, and to India as a whole. Originally a small fishing village inhabited by Koelis, a clan of fishermen, and subsequently a small Portuguese settlement, it has grown during the last one hundred and fifty years to be one of the great cities of the world. In building up this great city, all communities, including the British, have taken their share; and, as a result, it has acquired a mixed individuality and is distinctly multilingual and cosmopolitan. Historically, it has never been a part of the Maratha empire; but it is the heart of Konkan, and the Marathis regard Konkan as their main limb. Geographically, it is separate from Gujarat; but north Konkan adjoins Gujarat and is the borderland between Maharashtra and Gujarat, and has never been entirely free from Gujarati influence. Industrially and commercially, it is the hub of India's financial and industrial activity. And altogether it excites some of the deepest emotions in Maratha and Gujarati hearts, and its future is the thorniest problem which the linguistic provinces are required to solve.

58. Closely connected with the city of Bombay is the adjoining island of Salsette, forming part of Bombay suburban district towards which the city finds its natural extension. Already a slice out of it from Juhu to Ghatkopar has become a suburb and virtually a part of Bombay, and a scheme is under way for Greater Bombay which aims at including the whole of Salsette island and some areas even beyond it. During the last war, Bombay received a large influx of population, to which substantial additions were made, after the termination of the war, by the refugees from Burma and Sind. And this expansion is still continuing and is rapidly altering the original percentages of the languages spoken in Bombay. Already the balance has somewhat tilted against the Marathas and there is every danger of their being swamped by the new population in the near future. And this has naturally created some anxiety in the mind of the Marathas in regard to the future of Bombay.

59. The total population of Bombay in 1931 was 11,61,383 and in 1941, 14,89,883. Its area in 1931 was 24 square miles and in 1941, 30 square miles.

60. The present revenue of Bombay is Rs. 1,320 lakhs. The Bombay suburban district had an area of 154 square miles and a population of 1,79,524 in 1931, and ten years later in 1941 it had an area of 153 square miles and a population of 2,51,147. The main languages spoken in Bombay suburban district are Marathi, Gujarati, Western Hindi, Canarese, Rajasthani, Konkani, and others. And, of these, the Marathi and Konkani percentage of the languages spoken in the city of Bombay in 1931 was 51.1 and the suburban district 64.4 respectively.

61. The Maharashtrian claim for the inclusion of the city of Bombay in the linguistic province of Maharashtra is based on the grounds that, by adding Konkani to Marathi, the language percentage is raised to 51 according to 1931 Census and becomes the majority language of the city that Bombay is a part of Konkani and as such a part of Maharashtra, and lastly, that Bombay being merely a city and not capable of being absorbed in any other contiguous linguistic area cannot stand by itself and necessarily should become a part of the contiguous linguistic province of Maharashtra.

62. It is doubtful whether the Marathi majority recorded in 1931 still subsists. Whether the language spoken by the lower strata of society in their homes in the four coastal Taluks of Umargaon, Dhanu, Palgarh and Bassein of North Konkan is basically Gujarati or Marathi is another controversial matter. But even if we accept for the purposes of this inquiry that Maharashtra has a language majority of 51 per cent. in the city, and that Bombay is not merely an island but is a part of Konkani and as such of Maharashtra, do these facts furnish any valid ground for the city being included in a linguistic province?

63. First of all, it is to be clearly understood that the city of Bombay taken by itself is not a unilingual area and cannot be classified as such in any sense of the word. This was apparently also recognised by the Congress Constitution of 1921 which labelled it Gujarati as well as Marathi. All the evidence before us is agreed that it would not be proper to call any area a unilingual area unless the majority of the one language spoken in that area reaches at least 70 per cent. and any area below that should be considered as bilingual or multilingual, as the case may be. On this principle it is claimed by all the advocates of linguistic provinces that all border districts where the majority language is 50 to 70 per cent. may be treated as bilingual and broken up into bits up to villages and their population appropriated to contiguous linguistic areas. This is the way in which equities are proposed to be adjusted in bilingual areas between rival linguistic groups, who reside there.

64. If border districts, which are bilingual and which have developed an organism and an economic life of their own, are to be broken up to adjust the equities between rival linguistic groups, then we see no reason why capital cities, which have also developed an organism and an economic life of their own, should also be not disposed of in such a way that equities between all linguistic groups are properly adjusted. It is true that the city is a different kind of organism and cannot be conveniently broken up. But there are other ways of satisfying the claims of different parties, and there seems to be no principle upon which a present of the entire city should be made to one out of the many multilingual groups. It is on the strength of the principle referred to above that Andhra claims a share of, or a joint interest in, Madras, but Maharashtra inconsistently refuses to apply this principle to Bombay and claims the entire city for itself.

65. In all the non-Maharashtrian evidence that came before us there was practical unanimity that the city of Bombay should be formed into a separate province, either Centrally administered or with a Government of its own and in no case should it be placed under a unilingual Government. Some expert evidence was also led before us to show how the commercial and financial interests of the Bombay City and of India as a whole would be affected by a sudden change in the form of the government in Bombay. In the view which we have taken of the problem it is not necessary to express an opinion upon this claim and it remains to be considered at the proper time when the occasion arises to give a decision on the fate of Bombay.

66. We are of the opinion that bilingual or multilingual areas should be disposed of having regard to their own economic or administrative interests, and the principle on which linguistic provinces are to be formed has no application to them; and, unless it be in the interests of these areas themselves, they should not be broken up and allotted to various linguistic groups or to a single linguistic group. And the fate of these areas falls to be decided by the totality of circumstances in each case and not by the single consideration of language majority or the contiguity of the area to any unilingual area.

67. The best fortune that we can see for the city of Bombay is that it should continue as it is today, the meeting-place of all communities, their source of pride and affection and a convenient centre for their joint labour and enterprise. It will be incongruous to make this multi-lingual, cosmopolitan city the capital of a unilingual province.

68. The future of Bombay, therefore, seems to us by itself a very strong argument against the formation of linguistic provinces. And if these provinces are ultimately decided upon, we suggest that Bombay and possibly Madras should be kept wholly outside the vortex of linguistic politics and disposed of in the best way possible in their own interest and in the interests of the country as a whole and not on linguistic considerations alone.

THE CITY OF MADRAS

69. The city of Madras with its port is situated on the west coast of the Bay of Bengal. It occupied an area of 30 square miles in 1941, and its population, according to the Census of 1941, was 7,77,481, and its estimated population for 1948, according to the Monthly Bulletin of the Corporation of Madras published in June 1948, is 9,83,087. It forms one of the twenty-five districts of the existing province of Madras and yields a revenue of rupees five hundred and eighty-nine lakhs.

70. Statistics of the languages spoken in the city of Madras were not recorded after the Census of 1931 and those of 1931 have now become somewhat out of date, and their accuracy is also challenged. In 1931 the total population recorded was 6,47,230, of which Tamils were 4,11,820 (63.6 p.c.), Telugus 1,24,649 (19.1 p.c.), Hindusthanis 62,651 (9.7 p.c.), Kannadas 4,539 (0.7 p.c.), and Malayalis 9,229 (1.4 p.c.). In Chingleput district which surrounds Madras, according to the Census figures of 1931, Tamils form 78 per cent. of the population and Telugus 19.3 per cent.; Telugus number 3,19,946 as against 12,90,877 Tamils; and in some villages of some taluks of the district Telugus form a majority and are interspersed throughout the district. In the adjoining districts of Chittoor and Nellore Telugu is the majority language of 73.4 per cent. and 91.7 per cent. of the people, respectively, and in the former district Tamil also is the language of 19.3 per cent. of the people and in some villages of some taluks it is also the majority language and is also interspersed throughout the district.

71. The city of Madras is the capital of the province. It is the centre of the social, political, educational, cultural, economic and industrial life of the entire Province and derives its sustenance and nourishment from the resources thereof and, in its turn, influences and determines the tone of activity of the Province in these fields. It is also substantially a cosmopolitan city built by the joint enterprise of all communities but mostly Tamil and Telugu. Both Tamils and Telugus have got very strong association with and attachment to Madras and it evokes very strong feelings and emotions in them.

72. The Telugus claim Madras on the ground that it falls within the Telugu area, they would like to draw the southern boundary of Andhra below Chingleput district so as to include Madras in it. They also claim it on the grounds that the villages surrounding it are Telugu villages and that the initial grant by which it came to be a British Settlement in the fifteenth century proceeded from a Telugu Raja or his Agent. It is said that it was at its inception a Telugu town and was subsequently built up by Telugu industry and patriotism.

73. The Tamils claim it on the ground that it was within the borders of Tamil-Nad as described in ancient books, that it contains at present a majority of Tamil population and it is surrounded at present by preponderatingly large Tamil areas.

74. These claims are challenged and counter challenged but in our opinion this is a fruitless controversy. Historical arguments on both sides may have some basis in facts but they are somewhat remote and the controversy can only be decided on existing facts. And on these facts the city of Madras cannot be taken exclusively either as a Telugu area or as a Tamil area and it can only be regarded as a multi-lingual and cosmopolitan city, though it may be a fact that Tamil is the majority language in the city and in the areas which surround it and this majority is not accidental or temporary and can be traced back at least to 1881, the earliest year for which Census figures are available. A city which contains so many associations of both the communities, which owes its life and existence to the joint devotion and patriotism of both the communities and of many other communities and which has assumed a cosmopolitan character in the course of several generations, cannot be disposed of, on mere linguistic considerations, in favour of one community without causing grave dissatisfaction and injustice to the other.

75. A number of suggestions were made to us in regard to the disposal of Madras, none of which is free from difficulty or commends itself to us. It is neither desirable nor practicable to divide the city physically into two parts north and south of river Cooum and allot the northern portion to Telugus and the southern portion to Tamils because it is not possible to bring out a purely Telugu area or a purely Tamil area either in the north or in the south of Madras. The social, political and industrial life is so inter-mixed in both sections of the city that it would retain its multi-lingual character even after separation and a physical partition of the town will not only destroy its organic character but also spell its ruin from every point of view.

76. Another suggestion was made by the Telugus that Madras should be made a joint capital of both Andhra and Tamil-Nad from where they should carry on their respective Governments. The details of this arrangement were not explained to us, and it is not easy to see how it can be fitted into the new constitution and worked without causing considerable administrative difficulties.

77. The third suggestion, which received wide support from the Telugus was that it should be made into a Chief Commissioner's Province either by itself or with the addition of a few villages from the surrounding districts on the model of the present Delhi Province. The case of Delhi is a special one in which a city of the Punjab possessing no special importance at the time, was for political reasons, raised to the status of the Capital of India. We do not know how Madras will fare after being torn from its present

province with three rival capitals competing with it in Andhra, Tamil-Nad and Kerala. Such an experiment has never been tried before and its success may not be perfectly assured.

78. The difficulty in making a suitable provision for Madras presents itself as another strong argument against the formation of linguistic provinces. But if the formation of these provinces is inevitable, the city of Madras should also be treated as multi-lingual and cosmopolitan, like Bombay, though not quite to the same extent as Bombay, and should be disposed of on the considerations which we have stated while discussing the case of Bombay.



CHAPTER III

Financial Position of the Proposed Provinces

(By Shri B. C. Banerji, I. A. & A. S., Secretary)

79. In this chapter is discussed in detail the financial position of the proposed provinces and the consequences that their creation is likely to produce on the adjoining territories. This is a matter of vital importance inasmuch as sound finances constitute the bedrock on which good and efficient administration rests. In fact no administration can be secure and stable unless it is broadbased upon strong financial foundations.

80. It is just as well to state at the outset that there are certain factors, which have brought in an element of uncertainty in the calculations of the financial consequences of the creation of the new provinces. The boundaries of the new provinces have not yet been finally fixed, and until they are determined it is not possible to estimate the financial consequences with the precision that one might desire. Another element of uncertainty is furnished by the consideration that much will depend on the decision as to whether the cities of Bombay and Madras will be allowed to form parts of some Province or other or constituted into separate Provinces. As the revenue collected in each of these cities is very large the decision regarding its future position is bound to have financial consequences, which cannot be ignored. Nor can one ignore the probable effects of the introduction of Prohibition Policy in the various Provinces. As far as Andhra, Tamilnad and Kerala are concerned, the position is quite clear inasmuch as the Prohibition Policy has been introduced *in toto* there. No definite information is, however, available as to whether the Prohibition Policy will be pushed to the extreme or slowed down in Maharashtra, Karnataka, Gujarat and Hindi C.P. In the circumstances it must be said that the financial estimates relating to the proposed provinces leave some room for adjustment.

81. It may be mentioned here that in the examination and assessment of the financial position of the proposed provinces, three years' average of revenue and expenditure has been taken as the basis of calculation for it is thought that three years' average is a safer guide in such matters than the figures of one year, which may contain abnormal items. It is true that the years 1945-46 and 1946-47 are not quite normal years for budgetary purposes and that some items of an extraordinary nature of both revenue and expenditure occurred in those years. But special or extraordinary items of revenue and expenditure are almost a common feature of a governmental budget and some item or other of this nature will be found in the budget of almost every year. Certain items of receipts, such as Excise revenue and grants for Post-war Development Schemes have, therefore, been omitted from the calculations, as, for reasons recorded elsewhere, these are not likely to recur in the immediate future. Certain items of expenditure, such as those relating to Post-war Development Schemes, have also been similarly excluded from consideration.

82. It was contended by some in Madras that Civil Defence expenditure should also be left out of account. It would however appear that such a contention is based on misconception. Civil Defence expenditure fell

broadly under 4 sections—(1) A.R.P. Measures, (2) War Police, (3) Food supply for Defence Services, and (4) Miscellaneous items such as Civil Representatives of the Army, A.R.P. training schemes, Cadet Training Schools, etc. The expenditure recorded under section (1) was pooled and divided in accordance with a slab system under which the Central Government met an increasing proportion of expenditure after certain limits. The expenditure under item (2) was borne by the Central Government subject to special allocation, while that under item (3) was fully borne by the Central revenues. The Provincial revenues were debited with the entire cost of item (4) only. In other words, Civil Defence expenditure was to a large extent reimbursed to the Provincial Government by the Central Government. Besides, if Civil Defence expenditure has been included in the calculations of expenditure, the receipts also have been included in Revenue. Moreover, it is not correct to say that Civil Defence expenditure has ceased altogether. It will appear from the Budget Memorandum of the Government of Madras for 1948-49 that it continues in the shape of expenditure on Home Guards, Special Police, etc., the only change being that, instead of the expenditure being shown under 64-B Civil Defence, it appears under 29-Police. As already stated, items of a special or extraordinary nature do appear in the Budget Estimates almost every year and cannot be eliminated altogether. It is, therefore, difficult to support the view that the item of Civil Defence expenditure should be omitted from the calculations altogether.

83. It may be added here that the calculations have been based entirely on the figures supplied by the Finance Departments and the Accountants General of the Provinces concerned. These figures have been subjected to a test-check by the Secretary, who has consulted officers of the Finance Departments of the Governments concerned whenever necessary. Slight alterations and corrections have also been made here and there.

84. The calculations of the financial consequences have been made on the assumption that the smallest unit or division would be a whole district. If, however, it so happens that a district is partitioned and some of its talukas given to another district, slight readjustments of financial figures will be necessary.

85. In the matter of apportioning revenue and expenditure, as far as possible, between Andhra and Tamilnad the principle of division on population basis has been adopted. It will be readily conceded that any division on area basis will not yield satisfactory results as Tamilnad has a smaller area but a bigger population whereas Andhra has less population with a larger area. Nor will any division on the basis of the number of districts in each province be fair and equitable inasmuch as transactions of receipts and expenditure occur at times in the treasuries of districts other than those to which they relate. The Government of Madras have accepted the basis of population in framing their estimates of Revenue and Expenditure of Andhra and it will be agreed that in the circumstances of the case division on population basis is a suitable guide. The principle of division followed in the other cases has been explained in the relevant paragraphs.

86. As regards the question of division of assets and liabilities, it is thought that as a general rule, it should be affected on the basis of location, that is to say, those assets which are situated in an area included in a particular province should be allocated to that Province, the liabilities attaching to the assets being also taken over by that province. It is, however, quite conceivable that such a principle of division may fail to do equal justice to the two parts separated from each other, for it may be found that according to this principle of division a disproportionately

larger number of assets are allotted to one province, which thereby gains at the expense of the other. To hold the scales even between the separating parts it may be necessary to adopt some other means of division. One such way would be to evaluate the assets at their market price and divide them between the two separating parts on population or revenue basis and compensate the losing province by payment in each.

87. As regards Provident funds of Government servants, the responsibility for their payment may be accepted by the Governments under whom they may be serving on the date of separation. This will obviate the difficulties and complications that the adoption of any other principle would involve. Individual cases where the application of this principle may present difficulty should be decided on their merits.

88. With regard to the pensionary liabilities a more or less similar line of action may be adopted. Each Government may undertake to continue to make payment of those pensions, which were being drawn at the treasuries within its jurisdiction and were on the date of separation borne on the books of those treasuries for payment. As regards pensions sanctioned after the date of separation, the liability should be taken over by the government, which sanctions the pensions or under whose administrative control the sanctioning authority happens to be.

89. A word of explanation may be added with regard to the Overhead charges. These include charges relating to the Head of a province and his personal staff, the Council of Ministers, the Secretariat and the Legislature, the Heads of Departments and their establishments, the setting up of new institutions, etc., and such incidental charges as the creation of a new province will necessarily involve. Rough and ready estimates of these charges have been made on the basis of the Bombay, Madras or the C. P. & Berar scales of pay, etc., as the case may be.

90. The following paragraphs contain a detailed examination of the financial position of the proposed provinces and adjoining territories. A Financial Appendix containing Statements giving details regarding revenue and expenditure, etc. is annexed.

ANDHRA

91. The case of Andhra may be taken first. It will be seen from Statement I that the average annual revenue for the three years from 1945-46 to 1947-48 of the 11 Telugu districts, as they are now, amounts to Rs. 1653.79 lakhs or, say Rs. 1654 lakhs. Adding to this figure a sum of Rs. 110 lakhs, being the increase in revenue due to enhancement of the rates of Sales Tax, the total comes to Rs. 1764 lakhs. The adoption of the Prohibition Policy has, however, led to a considerable decrease in Excise revenue, and it has been calculated that its extension to the remaining districts of the Province will, as far as the Telugu districts are concerned, result in a further decrease of Rs. 493 lakhs. Deducting this amount, the total of revenue comes to Rs. 1271 lakhs only. Besides, there has been an average annual receipt of Rs. 64 lakhs on account of Post-war Development Schemes. This amount should be deducted from the total revenue as this is an extraordinary item which may not recur in future and its inclusion would not make the budget quite normal. The average annual revenue, therefore, may reasonably be taken as Rs. (1271-64) 1207 lakhs.

92. As regards expenditure, it will appear from Statement I that the average of the actuals for 1945-46, 1946-47 and 1947-48 for the Telugu districts comes to Rs. 1684.82 lakhs. To this amount should be added a sum of Rs. 70 lakhs, being the increase in expenditure caused by the enhancement of dearness and house-rent allowances and another sum of Rs. 32 lakhs on account of staff for the enforcement of Prohibition Policy.

The Government of Madras do not expect this year, and perhaps for some years to come, any grant from the Government of India for the Post-war Development Schemes, not to talk of an increase in grant, which they originally anticipated. It was, therefore, suggested by the Government of Madras that in respect of Post-war Development Schemes no amount on account of receipts or expenditure should be taken into account as far as the years immediately ahead were concerned except to the extent of the commitments already made. As, however, these commitments relate to schemes, which are not likely to take long to complete, it is considered proper to leave them out of consideration altogether. But the 'Overhead Charges', that is to say, charges which the creation of a new province necessarily involves, must be added. According to the calculations based on Madras scales of pay, etc., these charges would come to Rs. 150.00 lakhs, but as a portion of it has already been included in the calculation of the share of unallocated items of expenditure, a sum of Rs. 75.70 lakhs only should be added. This would bring the total of expenditure to Rs. 1862.52 lakhs leaving a gap of Rs. 665.52 lakhs between revenue and expenditure. This, however, does not complete the picture. It must be remembered that if Andhra is not to have Madras as its capital, it must build a new capital of its own. According to rough calculations made by the Chief Engineer, P.W.D. (General), Madras, the approximate cost of construction of a new Capital based on 1948-49 rates would come to Rs. 997.17 lakhs or Rs. 10.00 crores in round numbers. The interest charges on this capital expenditure at the rate of 4 per cent. would amount to Rs. 40.00 lakhs and the maintenance charges of the buildings on the basis of 2 per cent. ($1\frac{1}{2}$ per cent. for annual repairs and $\frac{1}{2}$ per cent. for special repairs) to Rs. 20.00 lakhs. In other words, a sum of Rs. 60.00 lakhs, should be added to the total of Rs. 1862.52 lakhs shown above, thereby bringing the grand total of expenditure to Rs. 1922.52 lakhs. Deducting from this amount Rs. 64 lakhs, being the annual expenditure on Post-war Development Schemes referred to above, the total expenditure amounts to Rs. 1858.52 lakhs, and the deficit to about Rs. 651.52 lakhs.

93. The position of the proposed province of Andhra as regards Revenue and Expenditure is summarised below:—

SUMMARY

Revenue (in lakhs of Rupees)

Revenue	1653.79
Add increase due to enhancement of rates of Sales Tax	110.00
Deduct decrease due to introduction of Prohibition	493.00
Deduct Grants for Post-war Development Schemes	64.00
Total	1206.79
	or
	1207

Expenditure (in lakhs of Rupees)

Expenditure	1684.82
Add increase due to enhancement of dearness and house-rent allowances	70.00
Add increase due to Prohibition Enforcement Staff	32.00
Add Overhead Charges	75.70
Add Interest Charges on the cost of construction of new Capital	40.00
Add Charges on maintenance of buildings, etc., in new Capital	20.00
Deduct Post-war Development Schemes	—64.00
Total	1858.52
Deficit	—651.52
say	—652.00

94. It will thus be seen that the new province of Andhra will have a deficit of Rs. 652 lakhs to start with. It has already been pointed out that out of this deficit of Rs. 652 lakhs as much as Rs. 493 lakhs is attributable to the introduction of Prohibition Policy by the Government of Madras. It is understood that the Policy of Prohibition has been extended to the whole of the Presidency so that the drop in revenue to the extent of 493 lakhs is a certainty. As far as it can be envisaged now, the financial position of the Andhra Province is frankly disquieting. It is not enough to contemplate that in a few years' time it might be possible for government to so husband its resources as to find adequate funds for its day-to-day administration. What is more important is that the province must have sufficient means to carry out the various development schemes, which are of vital importance to the people and the province.

KERALA

95. As regards Kerala the story is briefly told. The total revenue, including increase due to enhancement of Sales Tax, comes to Rs. 332 lakhs as against a total Expenditure of Rs. 445 lakhs, inclusive of Overhead Charges and increase due to enhancement of Dearness Allowance, etc., and entertainment of Prohibition Enforcement Staff. Or, in other words, the new province of Kerala, if formed, will have a deficit of 113 lakhs to begin with. The position becomes worse when it is remembered that Malabar will have to build a capital of its own and this will necessarily involve the expenditure of a few lakhs of rupees by way of interest charges on borrowed capital and maintenance charges on buildings etc.

96. In view of the observations contained in the paragraphs of the Report relating to Kerala, no more detailed comments on the financial position of Kerala are called for.

KARNATAKA

97. As far as can be seen, Karnataka will comprise four districts of Bombay, viz., Belgaum, Bijapur, Dharwar and Kanara, and one district of Madras, viz., South Kanara. The table below will explain the financial position of Karnataka as it will stand after its creation. In calculating the Overhead Charges the Bombay and Madras scales of pay and allowances, etc., as the case may be, have been taken into account. It will appear that the new Province will be faced with a deficit of Rs. 2,23 lakhs.

	Revenue	Expenditure.
1. 4 Bombay districts	2,75.83	4,14.59
2. South Kanara	1,47.02	1,47.43
	4,23.75	5,62.02
Add Overhead Charges . . . . .	..	60.00
Add Interest and Maintenance Charges in connection with the construction of a new Capital . . . . .	..	25.00
	4,23.75	6,47.02
Deficit	—2,23.27	

MAHARASHTRA

98. The proposed Province of Maharashtra is expected to consist of ten districts of Bombay and eight districts of C. P. & Berar. The calculations

are, as in the other cases, based on three years' average. Apportionment of Taxes on Income and Grants for Post-war Development Schemes from the Government of India and Forest Revenue and Expenditure has been made on Revenue basis. It is felt that division on population basis would be woefully unfair to Bombay City, which would in that case get only 8 per cent. of Income Tax as its share whereas over 60 per cent. of the collections of Income Tax are made in Bombay City alone. If, on the other hand, the collection basis is adopted, Bombay would get the lion's share of Income Tax although it forms a very small, though no doubt very important, portion of the Presidency. Division on Revenue basis is, therefore, considered to be fair and most equitable and on this basis the respective shares of the four parts of Bombay will be as shown below:—

	Per cent.
Bombay City	40
Maharashtra	30
Gujarat	20
Karnataka	10

99. It may be stated here that in calculating the figures given below Excise Revenue and Expenditure have been taken into account, except to the extent indicated in the Statements of Revenue & Expenditure included in the Financial Appendix.

If the Prohibition Policy is allowed to run its full course in the Provinces of Bombay and C. P. & Berar, Excise Revenue will eventually be eliminated altogether so that the total revenues of the two units will necessarily dwindle and the deficit become larger. Of course, there would be some decrease in Excise expenditure as well, but that will not materially affect the position.

100. The following table gives a summary of the financial position of the 18 districts composing Maharashtra:—

	Revenue	Expenditure
1. 10 Districts of Bombay	9,34.40	11,84.79
2. 8 Districts of C. P. & Berar.	6,47.34	6,80.97
	15,81.74	18,65.76
		Add Overhead charges 99.00
		Interest on capital outlay on construction of Capital. } Nil as Nag-pur is there.
		Maintenance charges. }
	15,81.74	19,55.76
Deficit	—3,74.02	

101. If it be decided that the City of Bombay should be allotted to Maharashtra, then the position will be reversed, for with the surplus of Bombay added to the resources of Maharashtra, Maharashtra becomes a surplus Province.

102. If, however, it be decided that Maharashtra should comprise the 10 districts of Bombay only and that the 8 districts of C. P. & Berar should be formed into a separate Province called Mahavidarbha, then the

financial position of the respective provinces will be as indicated below:—

Maharashtra (10 Districts of Bombay)		Mahavidarbha (8 Districts of C.P. & Berar)	
Revenue	9,34.40	Revenue	6,47.34
Expenditure	11,84.79	Expenditure	6,80.97
Add Overhead Charges	50.00	*Add Overhead Charges	42.48
Add Interest and maintenance charges in connection with construction of Capital.	50.00	Add Interest on capital outlay on construction of Capital.	Nil as Nagpur is in Mahavidarbha.
	12,84.79		7,23.45
Deficit	—3,50.39	Deficit	—76.11

*As given by the Government of C.P. & Berar.

Financial Effects on Adjoining Territories

103. The Commission's terms of reference require an examination of the financial consequences that are likely to follow from the creation of the new Provinces in the adjoining territories of India. These territories roughly are Tamilnad, Mahakosala (Hindi C. P.) and Gujarat. The financial effects in these provinces have been assessed more or less on the same lines as in the case of the proposed new provinces.

I—TAMILNAD

104. A summary of the financial position of Tamilnad as it will be after separation will be found in the table below:—

	(Revenue In lakhs)		Expenditure (In lakhs)
	Rs.		Rs.
Revenue	23,53	Expenditure	21,69
Add increase due to enhancement of Sales Tax	1,65	Add increase due to enhancement of Dearness Allowance, etc.	90
	25,18		
Deduct decrease due to Prohibition	6,70	Add increase due to Prohibition enforcement staff	33
	18,48		22,92
		Add interest and maintenance charges connected with the construction of capital	60
		Add overhead charges	75.
			24,27
Deficit			—5,79

N. B.—Government of India grants for Post-war Development Schemes have been excluded from consideration.

105. If Madras City is separated from Tamilnad, the deficit of Tamilnad will be increased by the addition of 75 lakhs on account of Overhead Charges and 60 lakhs on account of Interest and Maintenance Charges in connection with the construction of a new Capital. The total deficit will then be 579 lakhs as shown above.

If, on the other hand, Madras City is allowed to remain in Tamilnad, the question of construction of a capital will not arise and the deficit will be reduced by 60 lakhs. The addition of the Madras City surplus of 351 lakhs will further reduce the deficit to 168 lakhs only.

MAHAKOSAL

106. The following is a short summary of the financial position of Mahakosal or Hindi C.P.:—

Revenue		Expenditure	
Receipts	5,09.45	Expenditure	4,35.11
		Add Overhead charges	50.40
		Add interest and maintenance charges in connection with the construction of a new capital.	50.00
			<u>5,35.51</u>
Deficit	—26,06		

GUJARAT

107. A summary of the financial position of Gujarat as it is expected to be after the separation of Maharashtra and Karnataka is given below:—

Revenue		Expenditure	
Revenue	5,16.41	Expenditure	4,14.57
		Add overhead charges	41.20
		Add interest and Maintenance Charges in connection with the construction of a new Capital.	25.00
			<u>4,80.77</u>
Surplus	+35.64		

BOMBAY CITY

108. The following is a brief summary of the financial position of the Bombay City as it will stand after the separation of Maharashtra and Gujarat:—

Revenue		Expenditure	
Revenue	13,20.28	Expenditure	7,47.42
Surplus	+5,72.86		

MADRAS CITY

Revenue		Expenditure	
Revenue	510	Expenditure	87
Add increase due to increase in the rates of Sales Tax	90	Add increase due to increase of Dearness allowance, etc.	10
	<u>600</u>		
Deduct decrease due to Prohibition	—140	Add increase due to Prohibition Enforcement Staff	12
	<u>460</u>		<u>109</u>
Surplus	+351		

CHAPTER IV

Financial, economic, administrative and other consequences

109. The financial, economic, administrative and other consequences of the proposed provinces are matters which, within the limited time and material at our disposal we have not been able to explore fully. Some of these consequences are matters of speculation and controversy. Others are obvious and can be briefly stated.

110. As the seven new provinces of Andhra, Kerala, Tamilnad, Karnataka, Maharashtra, Gujarat and Mahakoshal will take the place of the existing three provinces of Madras, Bombay, and C. P. and Berar, it is obvious that the new provinces will be comparatively smaller in size, population and revenue than many existing provinces of India. The financial position of these new provinces has been examined by our Secretary, who is a senior member of the Indian Audit and Accounts Service, and is explained in chapter III. And in Appendix V are shown the size, population, and revenue of the existing provinces, unions and some States and of the proposed provinces, and the relative place of these new provinces in the scheme of Indian provinces, can be judged from it.

111. The existing Indian provinces and States do not follow a uniform pattern in size, population and revenue, and present great diversities in these matters. The viability of a province in the Indian Union, therefore, can only be a relative question. These new provinces, which will be faced with deficit budgets, claim that they will be able to cut their coat according to their cloth by reducing expenditure and by imposing fresh taxation. Be that as it may, the margin of reserve in most of them is at present so small that, for many years to come, left to themselves, they can only function, if at all, as mere Police States and may thus be a great handicap to national development.

112. It is also manifest that the administration of the same area and same population, which had hitherto been carried on by three Provincial Governments will in future have to be carried on by seven and the setting up of these will involve an annual recurring expenditure of about Rs. 6 crores, for which the Indian tax-payer will have to foot the bill at a time when money is urgently wanted for defence and nation-building.

113. The new Governments, with the possible exception of Maharashtra, will all be under the necessity to build their capitals immediately, which may approximately involve an expenditure of about 40—50 crores. This housing and building programme is likely to clash seriously with the refugee problem and the building and housing programmes of the Governments and it is unlikely that the country's already over-taxed resources in building materials will be able to bear any further strain. Besides, such heavy expenditure on buildings is also likely to worsen the inflation problem.

114. These new provinces, in common with the rest of India, stand in need of agricultural and industrial development for which various projects have been prepared, the execution of which will fall upon the new provinces in relation to their respective areas. We do not think that these

provinces, left to themselves will, by their own resources, be able to execute these projects with their diminished credit, and the Centre must also be prepared to come to their help and finance all large developmental schemes.

115. The Administrative Service at present functioning in Madras, Bombay, and C. P. and Berar, is maintained on a provincial basis and includes in its personnel a fair proportion of each large linguistic group residing in the province. This service will have to be broken up and made into an exclusively linguistic group service. Whether this partition can be properly carried out without causing hardship in individual cases, and whether sufficient technically qualified talent will be available in each linguistic group is doubtful. But we are certain that, for sometime to come, the administrative efficiency of the service will be lowered. The sudden withdrawal of British personnel from the Administrative Service has already taxed its resources to the utmost; with an acute shortage of administrative ability and experience we are just carrying on the administration on the momentum left by the British with the help of stop-gap arrangements and on a bare margin of safety. In administrative experience and efficiency the new provinces will be at a further disadvantage till they have trained their own officers, and it cannot be said with certainty that the new services will be able to stand up to any serious crisis in the maintenance of law and order or that they will be able to conduct the administration, with the same efficiency.

116. The new linguistic provinces will immediately bring into existence a new kind of minority problem which did not exist before. In a heterogeneous province it is not possible for any linguistic group residing in the province to call any area, even its homeland, exclusively its own and to regard any person residing there as an alien or outsider. But the moment a province is allotted to a majority linguistic group as such and that group forms a majority government in it, it begins to regard the area as exclusively belonging to that particular linguistic group, and to treat all persons not belonging to the majority linguistic group and speaking a different language as outsiders and aliens. And, by a natural reaction, people not speaking the majority language resent the intolerance of the majority or have their own affinities with a separate linguistic group elsewhere, and thus a vicious circle of mutual hostility begins and a minority problem comes into existence. The best illustration of this tendency is to be found in the Telugus of Orissa and the Tamils of southern Travancore, and, in a minor degree, in the complaints of minorities in all border districts. The linguistic groups do not form in any area a majority of more than 75—80 per cent., and it will not be possible to form any province without leaving a minority of 20—25 per cent., who will be a constant source of embarrassment to the administration of the province.

117. Side by side with the minority problem a State problem will also come into existence, demanding immediate solution. The destiny of Travancore and Cochin is entirely linked up with that of Malabar, as the destiny of Mysore is with that of Union Karnataka and of Kolhapur with that of Maharashtra. A great deal of ground has already been prepared to bring these areas and people residing there together; and, with the formation of linguistic provinces, their union will become a live issue. And it will be only a question of time when the agitation turns to Hyderabad to add to the worries of an already harassed Government. The distant rumblings of the Tamil agitation in relation to the southern tip of Travancore, which were heard by us, give us an idea of how close the danger is of Telugu, Kannada, and Maharashtrian agitation in relation to Hyderabad.

118. Karnataka and Kerala present separate and special problems of their own. The Karnataka districts fringe round the State of Mysore (as has been explained in para. 44), and communications between one end of the province and the other will be difficult and awkward. Mangalore, for instance, will be accessible by rail from Dharwar, which is mentioned as the likely Capital, by a long and circuitous route passing through Malabar and Madras. The province of Kerala will consist of only one district (Malabar) and such a province, with the same set of officials posted permanently in the district, will not be in the interests either of the people or of good government. Malabar is a deficit area in food, which it now receives from surplus areas in the Madras Presidency, and trade channels have been established accordingly. These will be seriously affected if Malabar is cut off. These administrative problems will no doubt disappear to some extent when Malabar unites with Cochin and Travancore States and Karnataka with the Mysore State. Such a union would be in the interests of the States as well: in particular the land-locked state of Mysore would automatically secure a passage to the sea with fine harbours—not an inconsiderable advantage. We trust that the negotiations, which are afoot, will bear early and fruitful result.

119. The division into correct linguistic areas will naturally need a Boundary Commission working through many border districts and so hotly are many of these contested that plebiscites will have to be held. This will be a long-drawn-out process, in which feelings would be aroused to a much greater extent than even during our inquiry, and, however carefully and conscientiously the work may be done, there are bound to be left dissatisfied parties with resultant bitterness. This may take long to disappear and thus impede all efforts at nation-building.

120. The formation of linguistic provinces is sure to give rise to a demand for the separation of other linguistic groups elsewhere. Claims have already been made by Sikhs, Jats and others and these demands will in course of time be intensified and become live issues if once the formation of linguistic provinces is decided upon.

CHAPTER V

Summary and conclusions

121. The existing provinces of Madras, Bombay, and the Central Provinces and Berar hold together within their respective territories large linguistic groups which are unequally matched for the struggle for existence or for the struggle for political power. In the struggle for political power, which British imperialism and subsequently democracy under British rule introduced in this country, these heterogeneous elements were not completely successful in producing harmonious Governments, with the result that a demand grew up in course of time on the part of the groups, which felt that they had suffered in the struggle, for a separate Government of their own.

122. When a conflict of interest, real or imaginary, arises between linguistic groups differing in numerical strength and in mental and moral equipment, it does not take long for the minority to feel that it has no chance against the majority, and it finds an easy solution of its difficulty in a desire for separation. Whether this demand is due to the aggressiveness of the more successful groups or to some inherent or accidental weakness in the less successful ones or to both it is not easy to determine; nor is it necessary to do so. It is sufficient to note the conditions which bring it into existence and to observe that it originates in a desire for power which, in its lower sense, is a desire for jobs and offices and, in its higher sense, a desire for service to the community and for its material and moral advancement. And it actuates the conduct of both honest and patriotic persons and of self-seekers in the groups in which such a demand has sprung up.

123. The intensity of the demand and its duration as also its justification vary from province to province, and within linguistic groups of the same province and also within the different sections of the same group. It has a long and persistent history of agitation behind it in ANDHRA, and exists in its strongest form in the coastal districts thereof. The Rayalaseema districts of Andhra are not affected by the demand to the same extent, and a substantial section is opposed to it. Just as there is a genuine apprehension in the coastal Andhra mind against Tamil domination, so too, there is an apprehension, though in a somewhat lesser degree, in the Rayalaseema mind against coastal domination. Next to Andhra, the demand is insistent in KARNATAKA, though there it is moderated by the knowledge that, for the unification of Karnataka, the co-operation of Mysore State is essential and that it may require some time for preparation. In Kerala there is a general recognition that, without the merger of Cochin and Travancore States, a separate province cannot exist; and the demand there is weakest and is rightly conditioned upon the formation of any other linguistic province out of Madras, and the people are prepared to wait till a United Kerala comes into existence. The Maharashtra is a late-comer in the field of agitation for linguistic provinces, and it is still a divided house comprising three cross-divisions of KONKAN, DESH, and MAHABHARAT, none of whom has suffered in any way in the struggle for political power.

124. The main ground put forward for the demand for linguistic provinces is that they are essential for the working of democracy, as also for the working of the Constitution, and a linguistic province is the best form of a homogeneous province, which the existing circumstances in India permit to be formed. It is said that the working of democracy is impeded in the field of EDUCATION, Legislature, and Administration by a multiplicity of languages spoken in a province. It is further said that autonomous provinces are embeded in our Federal Constitution and autonomous provinces imply autonomous States. And as the larger linguistic groups now existing in India claim historically to have formed sub-nations, they contend that the appropriate place for these sub-nations is in a linguistic State, just as, for the same reason, the correct principle upon which autonomous provinces should be formed is the linguistic principle.

125. Linguistic homogeneity in the formation of new provinces is certainly attainable within certain limits but only at the cost of creating a fresh minority problem. More than half the Malayalam and Kannada speaking people are living in Indian States, and only a little less than half of the Telugu and Marathi speaking people are living either in Indian States or in Union Provinces from which they cannot be transferred to new linguistic provinces either for want of geographical contiguity or want of their consent to be so transferred. These must remain, at least for many years to come, outside the sphere of a linguistic province. Even in the limited areas of the Union, which can be made homogeneous linguistically, border districts on each side and the capital cities of Bombay and Madras will remain bilingual or multi-lingual. And, as has been explained before, nowhere will it be possible to form a linguistic province of more than 70 to 80 per cent. of the people speaking the same language, thus leaving in each province a minority of at least 20 per cent. of people speaking other languages. And considering the evidence, which has come before us in regard to the Telugus, who were transferred to Orissa from Madras at the time of the formation of the Orissa province, and the Tamils, who live in Southern Travancore, it is easy to foresee that similar minority problems on a much more extensive scale will arise all over the linguistic provinces.

126. As for persons speaking the same language forming a sub-nation, whatever may have been their condition in the past, now for 200 years these people have got separated and scattered over different areas in British-made provinces or Indian States and have become assimilated with them, so much so that the Rayalaseema districts are not at present eager to throw in their lot with the coastal districts; Cochin and Travancore would not readily coalesce with Malabar; and there are difficulties in the way of Mysore merging in Coorg and Karnataka districts; and Mahavidarbha is not keen on joining Bombay Maharashtra. Each of these differing elements now has its own special needs and problems, which require individual treatment and which prevent these elements from easily coming together in one homogeneous province contemplated by the Constitution unless special provisions be made for them.

127. It may, therefore, be safely assumed that linguistic groups as sub-nations do not exist anywhere at present. But if the intention were to bring sub-nations into existence, there could not be a better way of doing it than by putting together these differing elements in a linguistic province. An autonomous linguistic province, in other words, means an

autonomous linguistic State and an autonomous linguistic State means, in the words of one of its exponents, that its territories are inviolate. And if in a linguistic province the majority language group comes to regard the territory of the entire province as exclusively its own, the time cannot be far distant when it will come to regard the minority living in that province and people living outside it as not their own. And once that stage is reached, it will only be a question of time for that sub-nation to consider itself a full nation.

128. The strength of the demand for linguistic provinces lies in the fact that there is some advantage in imparting education in working the Legislature, and in administration if a large majority of the people speak the same language and in the fact that these linguistic groups do not seem to live happily in the existing provinces and are anxious to separate. The demand receives added force from the fact that several of the existing provinces more or less possess linguistic homogeneity. That one part of the country is linguistically homogeneous, including the small province of Orissa, which has to be maintained by subvention from the Centre, is a source of constant irritation to linguistically heterogeneous provinces. It certainly does not lie in the mouth of those who are living in a linguistically homogeneous province to point out its evils to those living in a heterogeneous province. Moreover the formation of linguistic provinces has been an article of faith in the current political thought of the country during the last thirty years and has received the support of the Congress and the blessings of Mahatma Gandhi.

129. The weakness of the demand lies in the fact that it involves the recognition of the principle of government of a province by a linguistic group, which is basically wrong. Further it paves the way for the recognition of other group governments for which there may exist a tendency in the country, for example, government by Southerners in the South of India, government by Sikhs and Jats in the north of India, and even government by the non-Brahmins in certain areas of this country. It leads to the breaking up or deterioration of vital organisms like capital cities and border districts where, for generations, a bilingual or multilingual life has flourished happily. It would further create minority problems and State problems of a kind which did not exist before. And, above all, it would bring into existence provinces with a sub-national bias at a time when nationalism is yet in its infancy and is not in a position to bear any strain. And, lastly, the motive behind the demand is open to serious challenge. It is not the ostensible ground of making democracy run smoother, but the fact that these several communities living in the province cannot get on together, that is behind the proposal to separate and form governments of their own.

130. The existing Indian provinces are administrative units of British imperialism. They came into existence in a somewhat haphazard way, and were not designed to work democratic institutions; they are certainly susceptible of more scientific and rational planning. But they have taken root and are now living vital organisms and have served the useful purpose of bringing together people, who might otherwise have remained separated. And though they may be somewhat disadvantageous in working modern democracy, they are not bad instruments for submerging a sub-national consciousness and moulding a nation.

131. In any rational and scientific planning that may take place in regard to the provinces of India in the future, homogeneity of language alone cannot be decisive or even an important factor. Administrative

convenience, history, geography, economy, culture, and many other matters will also have to be given due weight. It may be that the provinces thus formed will also show homogeneity of language and, in a way, might resemble linguistic provinces. But, in forming the provinces, the emphasis should be primarily on administrative convenience, and homogeneity of language will enter into consideration only as a matter of administrative convenience and not by its own independent force.

132. But this is certainly not the time for embarking upon the enterprise of re-drawing the map of the whole of southern India, including the Deccan, Bombay, and the Central Provinces. India is yet to become a nation, and Indian States are yet to be integrated. The problem of re-grouping the provinces would become simpler when the future of the remaining States is definitely known. Again, India can ill spare at this moment and for some time to come the money, material, or administrative talent, which will be required for setting up half a dozen new governments and new capitals. It cannot afford to add to its anxieties the heat, controversy and bitterness, which the demarcation of boundaries and allotment of the capital cities of Bombay and Madras will involve. And lastly by splitting three existing provinces into half a dozen the economy of almost half the country will be so seriously upset that it should not be attempted without a great deal of study, preparation and planning. However urgent the problem of redistribution of provinces may be, it is not more urgent than the Defence problem, the inflation problem, the refugee problem, the food problem, the production problem, and many other problems with which India is burdened today. All these must get priority and the redistribution of provinces must wait till India has become a nation and has been fully integrated. If India lives, all her problems will be solved; if India does not survive, nothing will be gained by solving her linguistic provinces problem alone.

133. In order to secure this stability and integration, India should have a strong Centre and a national language. Indian nationalism is deeply wedded to its regional languages; Indian patriotism is aggressively attached to its provincial frontiers. If India is to survive, Indian nationalism and patriotism will have to sacrifice some of its cherished sentiments in the larger interests of the country. India has chosen for herself the destiny of a Federal Republic. In the Constitution, which is now being forged for her, framework may be set up, which would enable her to find her destiny. Provide, if you will, for autonomous provinces and for adult franchise; but also recognise that there will be a period of transition, a period of trial and error, during which India will have to prepare for its destiny and during which the Centre must possess large, over-riding powers of control and direction—powers which may be kept in reserve and may be sparingly used and finally abandoned, but which must be available for effective use if and when occasion arises.

134. Till nationalism has acquired sufficient strength to permit the formation of autonomous provinces, the true nature and function of a province under our Constitution should be that of an administrative unit functioning under delegated authority from the Centre and subject to the Centre's over-riding powers in regard to its territory, its existence, and its functions. These powers are required to form new provinces and to mitigate the rigour of government by linguistic majorities, to prevent a breakdown of the administration on account of disputes amongst linguistic groups, to check fissiparous tendencies and strengthen national feeling, and above all to build up an Indian nation.

135. An immediate solution has, however, to be found for the desire for separation which exists among the Telugus, Malayalees, Kannadigas, and Maharashtrians. These linguistic groups are entitled to their legitimate share in the administration, government, and development of their provinces. Two of these linguistic groups namely, Malayalees and Kannadigas, are situated at the tail-end of their provinces and represented by ineffectual minorities in their legislatures. Two others, namely, the Telugus and the Maharashtrians in C. P. & Berar, are represented by large, virile, and group-conscious minorities; but they are faced with equally group-conscious majorities and the two refuse to coalesce and produce a harmonious government. The clash and conflict, which exists between them, has brought the administration in Madras to a breaking point, and C. P. & Berar are also showing signs of going the same way. No particular grievance would seem to exist in the case of the Bombay Maharashtra group.

136. A number of constitutional safeguards were suggested to us to prevent such breakdown. One commonly-favoured suggestion was that the Governor should always come from another province and should be selected by the Centre for his character and ability and armed with powers to prevent injustice to minorities, and charged with this duty in his Instrument of Instructions. Another suggestion was that Provincial subjects should be reduced and joint subjects enlarged, and the Centre given residuary and over-riding powers. The third was that the Government in these provinces should be run by turns by linguistic groups, or be divided into administrative regions, and that the Centre should impose conventions in regard to these matters under which the administration might be carried on. We have not considered in detail these and other similar suggestions made to us as it is not strictly within our province to do so. They all, however, lead to the inference that the Centre must be armed with overriding powers and must assume responsibility to guide democracy till Indian nationalism has been sufficiently strengthened and democracy is able to stand on its own legs.

137. The only good that we can see in a linguistic province is the possible advantage it has in working the legislature in the regional language. But this is more than counter-balanced by the obstruction the linguistic provinces will inevitably cause to the spread of national language or national feeling in the country. It is claimed—and the view is sincerely held—that the Telugu, Malayalee, Kannadiga, or Maharashtrian will be a better nationalist by being put in a linguistic province than without it. It is said that, by being put in a linguistic province, each linguistic group will be happier and stronger and will be able to develop according to its genius, and a stronger group will be able to serve India better and consequently will be a better nationalist. We are convinced that this is a mistaken view. The emotional response, which the sub-national sentiment will receive from a linguistic province, will always be greater than the one received by the national sentiment. The linguistic group, by being put into a linguistic province, may or may not become stronger; but it does not follow that by being stronger it will become more nationalistic in outlook. Nationalism and sub-nationalism are two emotional experiences which grow at the expenses of each other. In a linguistic province sub-nationalism will always be the dominant force and will always evoke greater emotional response; and, in a conflict between the two, the nascent nationalism is sure to lose ground and will ultimately be submerged.

138. No doubt it is a fact that in some of the existing provinces linguistic homogeneity exists, and this is a source of constant irritation

to the other linguistic groups who are living in heterogeneous provinces. As soon as India has been physically and emotionally integrated, the Indian State problem solved and the national sentiment strengthened, the scientific planning of the existing provinces of India can be taken in hand as far as practicable and this invidious distinction obliterated; but till then it has to be accepted as an accident of history and all sub-national tendencies in the existing linguistic provinces should be suppressed.

139. It is true that these linguistic groups, who are clamouring for separate provinces, are not happy in their present surroundings and the friction and differences which subsist between them, constitute a serious threat to good government. This has already become a major administrative problem. But the mere fact that two large communities cannot get on together is no valid reason for breaking up a province even when these communities are numerically large enough, economically strong enough, and geographically contiguous enough to form provinces of their own. The principle underlying this separation would be so dangerous in its application to the rest of India that the strongest advocates of linguistic provinces have been compelled not to base their demand on this ground which is really at the back of their minds, but to make it on other ostensible grounds like benefit to democracy or preservation and development of their language and culture. Not only the groups, whose cases we are considering, but many other linguistic groups in so-called homogeneous provinces, as also many other communal groups, who have as strong an individuality as these linguistic groups possess, are not happy in their present surroundings. And if once this principle is recognised, it will set the ball rolling for the disintegration of the entire country. And we do not think that the case is any further advanced by the fact that these groups are not only discontented groups but also linguistic groups.

140. It is said that Congress pledges are behind this demand, and that the Congress has formed its provinces on a linguistic basis, that the present political leadership of the country is committed to it, that the desire for these provinces has sunk deep down into the masses, and that, if it is now delayed or denied, it will cause serious discontent. There may be some truth in all this, but we trust that the political leadership in the country will rise to the occasion and guide the country to its duty. The Congress did not form its provinces on a linguistic basis alone, and so far as we are aware, has not committed itself to any time limit in regard to the formation of these provinces, unless it be that the time-limit intended by the Congress was the attainment of Swaraj. But freedom has come to us in a way unforeseen and unthought-of and has brought in its train problems and dangers never dreamt of. In view of the dangers, which now surround our country, and in the circumstances that now exist, the Congress stands relieved of all past commitments and it is its right as also its duty to come to a fresh decision on the subject in the light of the present circumstances.

141. The caste system and sectional and group interests stir up some of the deepest emotions in the Indian heart. Those patriotic persons, who fought the battle of freedom under the banner of the Congress and who are now agitating for separate provinces, share the sentiments of their countrymen. They find it difficult to understand how they will become less national-minded and less patriotic by harbouring sentiments, which they had cherished all along and for which a linguistic province is a natural expression, when these very sentiments did not stand in the way of their uniting and making immense sacrifices for the cause of Indian freedom in the struggle against British Imperialism. They do not realise

that nationalism born under the stress of foreign domination or of the fear of external aggression cannot stand the strain of normal times unless there is some deeper unity to support it when the stresses which have brought it into being disappear. History is replete with examples of great movements born of a sudden surge of feeling meeting with disaster when the moving stimulus was withdrawn. And Indian unity and Indian nationalism, which are yet in their infancy, will not be able to bear the strain of normal times, unless the mass psychology undergoes a radical change and ceases to think in terms of 'mine' and 'thine' in so far as the nation and the State are concerned. If India is to live, there simply cannot be an autonomous State anywhere in India for any group, linguistic or otherwise; and no sub-national province can be formed without preparing the way for ultimate disaster.

142. So clear is the force of logic with which the case of Indian nationalism presents itself to an unprejudiced mind, and at the same time so keen is the desire for linguistic provinces in certain areas that all sensible advocates of such provinces are even prepared to abandon provincial autonomy and accept a unitary Government for India. All the best evidence presented before us is unanimous regarding a strong Centre with over-riding powers and a compulsory national and official language to be enforced by statute. If India decides that the existing linguistic provinces should be retained and others formed in the future, it must prepare itself for a unitary government at least for the period of transition. And the Constitution should provide for a gradual devaluation of power to provinces with full autonomy only when Indian nationalism has been sufficiently strengthened. This is the least margin of safety under which these linguistic provinces can be permitted to function.

143. This inquiry in some ways has been an eye-opener to us. The work of sixty years of the Indian National Congress was standing before us face to face with centuries-old India of narrow loyalties, petty jealousies, and ignorant prejudices engaged in a mortal conflict, and we were simply horrified to see how thin was the ice upon which we were skating. Some of the ablest men in the country came before us and confidently and emphatically stated that language, in this country stood for and represented the culture, tradition, race, history, individuality, and, finally, a sub-nation; that the government of a linguistic group could not be safely left in the hands of a multi-lingual group; and that each linguistic group must have a territory of its own and that its territory was inviolate and could not be shared by any other linguistic group. And it is fair to state that these were not individual views, but the views of a great many of our countrymen. The bitter dispute which rages between Tamils and Telugus in regard to the city of Madras and, in a greater degree, between the Mahrathas and Gujaratis about the city of Bombay, reveals a mentality which to our mind will be the death-knell of Indian nationalism.

144. The basic facts of the Indian situation are well-known and well-settled, and are not in dispute on either side. India can only live by the strength of its nationalism; Indian nationalism must find its expression in democracy and not in a kind of fascism; that democracy in this country can only function through a Federation as an absolute unitary government for such a vast country is neither desirable nor practicable; and a Federation requires contented and happy units and some measure of autonomy for these units.

145. Our masses have been exploited and have long been suffering and their relief is overdue: and they are entitled immediately to the widest

possible education and the widest possible franchise; and all these objectives have to be achieved within the framework of a society, which is caste-ridden, group-conscious, and in the grip of reactionary vested interests, religious and secular. So far there is no dispute. The dispute arises in marking out the spheres, within which, the nationalism of the country and its reactionary tendencies have to find an outlet.

146. These linguistic provinces make a strong appeal to the imagination of many of our countrymen and there exists a large volume of public support in their favour. Indeed, in the coastal districts of Andhra, the demand has become, in the words of one of its leading advocates, "a passion and has ceased to be a matter of reason"; and the heat and passion and controversy, which gathered round the work of this Commission and which we witnessed during the course of our work, are in themselves a proof of the intensity of feeling which exists on this subject. The non-fulfilment of a demand of this nature may easily lead to a sense of frustration, and there is grave risk in turning it down; and such a risk can only be justified in the interests of national emergency.

147. In our opinion, however, such an emergency exists at present in this country. The first and last need of India at the present moment is that it should be made a nation. The Constitution, which is now being forged for India, as also all the multifarious problems, which clamour for an immediate solution, have got to be considered in relation to this paramount necessity. Everything which helps the growth of nationalism, has to go forward, and everything which throws obstacles in its way, has to be rejected or should stand over. We have applied this test to linguistic provinces also, and judged by this test, in our opinion, they fail and cannot be supported.

148. It has given us no pleasure to come to a decision, which runs counter to the cherished desires of so many countrymen of ours in Andhra, Kerala, Karnataka and Maharashtra. Throughout this inquiry a strong and able opinion has ranged itself against the formation of these linguistic provinces outside the areas in which the demand was put forward. This opinion proceeded from persons in all walks of life, including some of our ablest administrators and most distinguished countrymen. The case against the formation of linguistic provinces and the arguments by which it was supported have been adverted to in an earlier portion of this Report. If it were possible to decide the question of formation of linguistic provinces with reference to the wishes of the people who want these provinces alone, we should have been prepared to gratify their wishes. We do not think, however, that a question of such national importance can be decided with reference to such wishes without taking into account the repercussions, which they would have on the country as a whole. And, judging that way, we have come to the conclusion, reluctantly but definitely, that the case against linguistic provinces is the sounder of the two.

149. But this finding does not dispose of the administrative problems, which already exist, having regard to the mutual relations of these linguistic groups, nor does it in any way militate against the formation of administrative provinces out of these linguistic areas should such provinces be decided upon in future on purely administrative considerations.

150. An urgent case, however, exists for adjusting the relations of the various linguistic groups in the government of the existing provinces. Two of these linguistic groups, Kerala and Karnataka, being situated at the tail-end of their provinces and represented by ineffective minorities,

have undoubtedly suffered in their development. There can be no doubt that they would prosper and be able to manage their affairs much better under their own government nearer home if such a government were possible. The cases of Andhra and C.P. Maharashtra are more complicated and have a political colouring. The clash and conflict, which strains the relations between Telugus and Tamils in Madras, is a serious handicap to the efficient administration of that province. And this is also true, though in a much lesser degree, of the relations between Mahavidarbha and Mahakoshal in the province of C.P. and Berar.

151. The evidence placed before us does not lead to the conclusion that the existing provinces of Madras, Bombay, C.P. & Berar are administratively inconvenient or that their re-formation on administrative grounds is immediately necessary and cannot wait. But it is not unlikely that when Indian States have aligned themselves with Indian provinces and India has been physically and emotionally integrated and has stabilised itself some of the existing Indian provinces may have to be re-formed. In any rational and scientific planning, which may then take place, the natural place of Malabar will be with Cochin and Travancore and of the Union Karnataka with Mysore and their problems will be automatically solved. In such a planning it may not be generally necessary to break up the bilingual border districts and they may be disposed of on their individual economic and historical affinities and Capital cities like Bombay and Madras should receive special treatment, which their interest and the larger interests of the nation may demand. Subject to the above and other relevant considerations, if re-formed provinces present features of linguistic homogeneity also that will be an additional advantage. If the government of the day should decide to re-form these provinces, an attempt should be made to secure the agreement of the parties concerned, which alone would ensure future harmonious relations.

152. Our conclusions, therefore, are:—

- (1) The formation of provinces on exclusively or even mainly linguistic considerations is not in the larger interests of the Indian nation and should not be taken in hand.
- (2) The existing provinces of Madras, Bombay, C.P. and Berar present serious administrative problems for which an administrative solution is urgently necessary and it is for the Centre to find a satisfactory solution of these problems.
- (3) The aforesaid problems do not call for an immediate re-formation of provinces. As soon as Indian States have been integrated and the country has stabilised itself and other conditions are favourable they may be re-formed and convenient administrative provinces set up.
- (4) In the formation of new provinces, whenever such a work is taken in hand, oneness of language may be one of the factors to be taken into consideration along with others; but it should not be the decisive or even the main factor. Generally speaking, bilingual districts in border areas, which have developed an economic and organic life of their own, should not be broken up and should be disposed of on considerations of their own special needs. Similarly, the cities of Bombay and Madras should receive special treatment and be disposed of in the best interests of India as a whole and in their own interests. Subject to the above and other relevant and paramount considerations, if some new provinces come into being and produce more or less linguistic homogeneity they need not be objected to.

- (5) If any powers are necessary for the Centre for a proper solution of the administrative problems in the provinces the Constitution should provide for them.

153. We find that no new provinces out of those referred to us should be formed for the present; and, in view of this finding, the other questions referred to us do not arise and need no answer.

154. Our Associate Members have given us invaluable help in selecting witnesses, in bringing out points for and against during the examination of witnesses and in advising us generally in matters with which they were familiar and which were new to us. We gratefully acknowledge the help which we have received from them.

155. Next, we desire to express our warm thanks to our Secretary, Shri B. C. Banerji, M.A., I.A. & A.S., specially for the pains he has taken in examining the financial position of the proposed new provinces, which he has described in Chapter III. His experience as a senior Accountant-General has been of great value and help to the Commission.

156. Lastly, we have to record our thanks to the Secretariat of the Constituent Assembly for making available to us a great deal of material which they had collected, for the excellent staff which they placed at our disposal, and for the willing co-operation which they extended to us throughout our inquiry.

S. K. DAR,

Chairman.

PANNA LALL
JAGAT NARAIN LAL } *Members.*

B. C. Banerji,
Secretary.

New Delhi, the 10th December, 1948.

APPENDIX I

(i) Recommendation of the Drafting Committee

"The Committee has anxiously considered the question whether Andhra should be specifically mentioned as a separate State in this Schedule. There was recently a statement by the Government on this subject, in which it was said that Andhra could be included among the provinces in the Constitution as was done in the case of Orissa and Sind under the Government of India Act, 1935. Accordingly the Committee was at one stage inclined to mention Andhra as a distinct State in the Schedule. On fuller consideration, however, the Committee feels that the bare mention of the State in the Schedule will not suffice to bring it into being from the commencement of the new Constitution. Preparatory steps will have to be taken immediately under the present Constitution in order that the new State, with all the machinery of government, may be in being from the commencement of the new Constitution. This was what was done in the case of Orissa and Sind under the Act of 1935; they were made into separate provinces with effect from April 1, 1936, while the Act came into operation on April 1, 1937. The Committee therefore recommends that a Commission should be appointed to work or inquire into all relevant matters *not only as regards Andhra but also as regards other linguistic regions*, with instructions to submit its report in time to enable any new States whose formation it may recommend to be created under section 290 of the Act of 1935 and to be mentioned in this Schedule before the Constitution is finally adopted."

(ii) Constituent Assembly of India

The Secretariat of the Constituent Assembly of India has issued the following Press communiqué:—

The question of the formation of certain new Provinces has been engaging public attention for some time. The Drafting Committee appointed by the Constituent Assembly of India recommended that a Commission should be appointed to enquire into and work out all relevant matters in connection with the formation of such Provinces with instructions to submit their report in time to enable the new States, whose formation such Commission may recommend to be created under Section 290 of the Government of India Act, 1935, as adapted, to be mentioned thereafter in the First Schedule to the Draft Constitution before the Constitution is finally adopted.

2. The President of the Constituent Assembly has accordingly been pleased to appoint the following Commission to examine and report on the formation of new Provinces of Andhra, Karnataka, Kerala and Maharashtra and on the administrative, financial and other consequences of the creation of such new Provinces. With the Commission will be associated the following Associate Members who will share freely in the proceedings of the Commission in so far as they are concerned but not take part in drafting or signing the report:—

- | | |
|--|--------------------|
| 1. Shri S. K. Dar (Retired Judge, Allahabad High Court) | } <i>Chairman.</i> |
| 2. Dr. Panna Lall, C.S.I., C.I.E. (Retired Member of the Indian Civil Service) | |
| 3. Shri Jagat Narain Lal (Member, Constituent Assembly of India) | } <i>Members.</i> |
| 4. Shri B. C. Banerji (Accountant-General, Bihar) | |
| | <i>Secretary.</i> |

*Associate Members***FROM MADRAS—****LINGUISTIC AREA
REPRESENTED**

1. The Hon'ble Shri Ramakrishna Raju Andhra.
(President, Madras Legislative Council)
2. Shri T. A. Ramalingam Chettiar Tamilnad.
(Member, Constituent Assembly of India).
3. Shri Narayana Menon, of Palghat Kerala.
(Member, Madras Legislative Council)
4. Shri Tokuri Subramanyam of Bellary Karnataka.

FROM BOMBAY—

1. Shri K. M. Munshi Gujarat.
(Member, Constituent Assembly of India).
2. Shri R. R. Diwakar Karnataka.
(Member, Constituent Assembly of India).
3. Shri H. V. Pataskar Maharashtra.
(Member, Constituent Assembly of India).

FROM THE CENTRAL PROVINCES & BERAR—

1. Shri T. L. Sheode Maharashtra.
(Retired Judge, Nagpur High Court).
2. Shri Gopilal Shrivastava Mahakoshal (Hindi-
(Advocate, Saugor). speaking areas).

3. The terms of reference to the Commission are as follows:—

- (1) What new Provinces, if any, from among those specified in paragraph 2 above should be created and what broadly should be their boundaries, it being understood that the precise demarcation of the boundaries would be considered later by a Boundary Commission?
- (2) What should be the administrative, economic, financial and other consequences in each Province to be so created?
- (3) What would be the administrative, economic, financial and other consequences in the adjoining territories of India?

APPENDIX II**CONSTITUENT ASSEMBLY OF INDIA****LINGUISTIC PROVINCES COMMISSION****Questionnaire regarding the proposed Provinces of Andhra, Karnataka, Kerala and Maharashtra****PART I**

1. Should Andhra, Karnataka, Kerala or Maharashtra be constituted into a separate Province on a linguistic basis?

2. What should be the boundary of the new Province? Please mention the districts and taluks which you would wish to be included in the new Province and give reasons in support of your opinion.

3. Should the new Province be constituted into a full-fledged Governor's Province with a Council of Ministers, the Legislature, a High Court, and Advocate-General, a Public Services Commission and an Auditor-in-Chief?

4. What do you think of the alternative scheme of constituting the proposed Province into a sub-Province of an existing Province with autonomous administrative machinery of its own?

5. Should the new Province have a separate administrative machinery for all the Government Departments, or should it have joint administration for any of the Departments with a neighbouring Province? Under this head the following subjects may be considered:—

(1) Justice, (2) Police, (3) Public Works, (4) Medical and Public Health, (5) Higher Education, and (6) Forest.

6. What should be the strength of the Council of Ministers? What pay and allowances would you recommend for each Minister?

7. Should the Legislature of the new Province be unicameral or bicameral and what should be the salary of its members?

8. How many Judges should the High Court have besides the Chief Justice?

9. How many members should the Public Services Commission have including the Chairman and what should be their salary?

10. Should the new Province have a University of its own? If so, should it have an honorary Vice-Chancellor or a salaried one and, in the latter case, what should be his salary?

11. Should there be a head for each Department of Government (including the Board of Revenue) or would you like to have more Departments than one placed under one controlling officer? Indicate the heads of Departments which you would propose for the Province and the salary that you would allow to each.

12. What scales of pay would you propose for the various Services?

13. If you find it convenient, please prepare rough estimates of income and expenditure of the new Province, under the various major heads.

14. If, according to your estimates, the probable revenues of the new Province are not sufficient to meet the expenditure and the new Province

is faced with a recurring deficit, how would you propose to meet the deficit? What steps would you recommend for increasing the revenues of the Province? Would you suggest fresh taxation? If so, please give details.

15. Do you contemplate the merger of any Indian States in your Province? If so, which and why? Has the opinion of the people of those States been ascertained to be in favour of the merger? Suppose the States do not wish to join your Province, would you still have the new Province created?

16. Where should the seat of Government of the new Province be located? How would you meet the cost of the creation of the new capital?

17. What would be the economic consequences of the creation of the new Province? Under this head the following subjects may be considered:—

- (1) Agriculture, (2) Industry, (3) Forest, (4) Minerals, (5) Trade and Commerce, (6) Economic Development, (7) Public Health, and (8) General prosperity of the people.

18. What in your opinion should be the basic principle or principles for the division of assets and liabilities?

19. Do you think the creation of the new Province will lead to a large-scale transference of population and consequent human suffering? If you do, what steps would you suggest for its prevention?

20. Have you any proposals to make regarding the cities of Bombay and Madras (including the ports and suburbs)? Do you think they should be included in any Province; if so, which? Would you favour the formation of these cities into separate Provinces or sub-Provinces? If so, please give facts and figures in justification of your view-point.

PART II

(For Tamilnad, Gujarat and Hindi C. P.)

21. Do you agree to the carving out of the proposed new Provinces of Andhra, Karnataka, Kerala and Maharashtra?

22. What effects, administrative, financial and economic, are likely to be produced on the remaining parts of the existing Provinces after the new Provinces have been formed out of them?

23. Please prepare rough estimates of income and expenditure under the various major heads for those parts of the existing Provinces which would remain after the creation of the new Provinces.

N.B.—R plies to this questionnaire should reach the Secretary of the Linguistic Provinces Commission, Constituent Assembly of India, Council House, New Delhi, by the 16th August, 1948.

APPENDIX III

Sri Bagh Pact

As approved by the Andhra Provincial Congress Committee

University.—This Committee is of opinion that the two University centres are to be developed under the Andhra University, one at Waltair and the other at Anantapur so as to distribute the centres of culture over the Andhradesa, and create opportunities for social and cultural intercourse amongst the Andhras and locate colleges in areas favourable to the subjects dealt with.

Irrigation.—That to ensure the rapid development of the Agricultural and Economic interests of Rayalaseema and Nellore on to the level of those in the Coastal districts, schemes of irrigation should, for a period of ten years or such longer period as conditions may necessitate, be given a preferential claim specially in respect of the utilization of the waters of Thungabhadra, Krishna and Pennar giving for ten years exclusive attention in respect of Major projects beneficial to these areas.

That whenever the question of sharing waters arises the needs of the aforesaid areas be the first met and that this policy be implemented as from today in the administration of the province.

Legislature.—That in the matter of general seats in the Legislature the distribution shall be generally on an equal district basis.

It is agreed that the location of the University, the Headquarters and the High Court may advantageously be in different places so as not to concentrate all civic importance at the same centre.

Accordingly it is agreed that while the University may continue to be where it is, the High Court and the Metropolis be located in suitable places in the coastal districts and the Rayalaseema, the choice being given to the Rayalaseema.

It shall, however, be open to vary these terms by common consent.

APPENDIX IV**The Akola Pact**

It is agreed that there shall be one province of United Maharashtra (Samyukt Maharashtra) with sub-provinces for the Marathi-speaking areas, Central Provinces and Berar, commonly styled Mahavidarbha, and West Maharashtra with separate legislatures and cabinets for the sub-provinces and with specified subjects under their jurisdiction. The province shall have the right to create other sub-provincial units whenever found necessary and feasible. There shall be one Governor and one Deputy Governor for the whole province elected by the whole province and a provincial cabinet and legislature dealing with the provincial subjects. The provincial legislature shall be composed of representatives of the people on the basis of population. The elections to the sub-provincial legislatures shall be held separately. Two High Courts shall function independently for the two sub-provinces except for a common tribunal set up for specific jurisdiction. There shall be a common public services commission for the whole province.

Shankarrao Deo

M. S. Aney

P. S. Deshmukh

Srimannarayan Agarwal

D. V. Gokhale

Brijlal Biyani

Datto Wanan Potdar

G. T. Madkholkar

S. K. Wankhede

Pandharinath Patil

P. Raka

Ramrao Deshmukh

D. R. Gadgil

Gopalrao Khedkar

Pramila Oke

G. R. Kulkarni



In case it becomes impossible on account of any circumstances to create a province of United Maharashtra in the manner outlined in the accompanying agreement, it is agreed that all efforts should be made for the formation of a separate province of Maha Vidarbha.

AKOLA,

8th August, 47.

Sd. SHANKARRAO DEO,

Sd. BRIJLAL BIYANI.

APPENDIX V**TABLE I**

Indian Provinces, Unions and some States with their Areas, Population and Revenues

PROVINCES

	Area in Sq. Miles	Population (In lakhs)	Revenue (In lakhs of rupees)]
Madras	1,26,166	4,93.42	5,519.17
Bombay	76,443	2,08.50	4,349.45
Bengal	27,748	2,12.11	1,888.26
U. P.	1,06,247	5,50.21	3,935.81
Punjab	37,058	1,26.17	682.38
Bihar	69,745	3,63.40	793.39
C. P. & Berar	98,575	1,68.14	1,240.41
Orissa	32,198	87.28	649.67
Assam	50,296	7,74.71	696.65

UNIONS

	Area in Sq. Miles	Population (In lakhs)	Revenue (In lakhs of rupees)
Saurashtra (217 States)	31,885	35.22	800.00
The United State of Matsya (4 States)	7,536	18.38	183.06
The United State of Vindhya Pradesh (35 States).	24,610	35.69	243.30
The United State of Rajasthan (10 States)	29,977	42.61	316.67
Gwalior-Indore Union (20 States)	46,273	71.50	776.42
Patiala and East Punjab Union (8 States)	10,119	24.24	500.00

226
STATES

	Area in Sq. Miles	Population	Revenue (In lakhs of rupees)
Baroda	8,235	2,855,010	895.00
Hyderabad	82,313	16,338,534	2,463.10
Jammu & Kashmir	84,471	4,021,616	586.65
Mysore	29,458	7,329,140	1,176.82
Travancore	7,662	6,070,018	611.25
Bikaner	23,181	1,292,938	222.77
Cochin	1,493	1,422,875	266.57
Jaipur	15,610	3,040,876	303.00
Jodhpur	36,120	2,555,904	224.34

TABLE II

Claimed Linguistic Units; their Area, Population and Revenue.

Unit	Area in Sq. Miles	Population	Revenue (In lakhs of rupees)
Andhra	67,025	1,87,84,304	1,207
Kerala	5,790	39,29,425	332
Karnataka,— 4 Dts. of Bombay } 1 Dt. of Madras }	22,813	53,67,099	424
Maharashtra, Bombay & C. P.	83,968	1,81,93,208	1,582
Tamil Nad	49,276	2,43,27,084	1,848
Gujarat	10,389	40,92,713	516
Mahakosal	61,710	97,92,890	509
Maharashtra Bombay 10 Dts.	47,103	1,11,72,514	934
Mahavidarbha C. P. 8 Dts.	36,865	70,20,694	647
Madras City	30	7,77,481	480
Bombay City	30	14,89,883	1,320

FINANCIAL APPENDIX***Statement I—Statement of Revenue and Expenditure***

A—ANDHRA

B—KERALA

C—KARNATAKA

D—MAHARASHTRA

Statement II—Statement of Revenue and Expenditure by Major Heads of Account

A—ANDHRA

B—KERALA

C—KARNATAKA

D—MAHARASHTRA

Statement III—Statement of Assets and Liabilities as on 31-3-1949

(i) Madras Presidency.

(ii) Bombay Presidency.

(iii) C.P. & Berar. (Not received)



सत्यमेव जयते

STATEMENT I

*Statement of Revenue and Expenditure

A--ANDHRA

228

District	Revenue				Expenditure			
	1945-46	1946-47	1947-48	Average	1945-46	1946-47	1947-48	Average
1. Vizagapatam	1,74.70	1,85.67	2,25.34	1,96.24	1,434.29	1,76.19	1,85.22	1,684.83
2. Godavari East	1,89.80	2,13.23	2,46.60	2,16.54	1,054.84	1,27.41	1,41.89	1,252.05
3. Godavari West	1,19.35	1,60.57	1,68.88	1,49.60	68.76	78.83	93.94	80.41
4. Kistna	1,62.97	1,90.92	1,92.97	1,82.29	79.65	93.34	1,05.31	92.90
5. Guntur	1,74.83	2,01.63	1,76.03	1,84.16	1,036.97	1,26.67	1,39.97	1,232.40
6. Nellore	85.13	89.25	79.73	84.71	72.44	94.19	95.32	87.48
7. Cuddapah	53.90	53.06	44.90	50.62	52.99	68.45	68.85	62.76
8. Anantapur	69.63	60.04	46.02	58.56	58.25	88.71	74.71	73.89
9. Bellary	82.28	72.45	59.06	71.26	67.04	84.38	84.29	78.57
10. Kurnool	92.88	73.07	58.85	74.93	61.09	73.45	77.61	70.72
11. Chittoor	67.04	61.67	45.09	57.93	59.46	92.67	79.52	77.32
TOTAL	12,72.51	13,64.56	13,43.47	13,26.84	8,72.78	11,01.59	11,47.63	10,40.63

*This does not take into account Receipts and Expenditure in Forest, P. W. and Electricity Divisions and Andhra's share of unallocated items of Revenue and Expenditure.

B.—KERALA.

Revenue.		Expenditure.		
		1945-46	1946-47	1947-48 Average
1945-46	1946-47	1947-48	Average	
316.01	362.78	364.56	347.78	285.46
				408.15
				385.92

C.—KARNATAKA

		Revenue			Expenditure				
S.No.	District	1945-46	1946-47	1947-48	Average	1945-46	1946-47	1947-48	Average
Bombay Presidency									
1.	Belgaum	43,73,531	32,63,112	88,19,900	54,85,514	80,88,829	1,14,48,592	1,46,82,900	1,14,06,776
2.	Bijapur	27,74,547	25,23,578	57,46,500	36,81,542	85,71,580	1,15,58,954	2,67,74,000	2,27,15,922
3.	Dharwar	42,03,379	33,08,220	80,60,000	51,90,533	90,62,253	1,21,82,980		
4.	Kanara	16,92,248	22,98,034	26,95,100	22,28,461	48,21,920	59,03,302	77,53,700	61,59,841
Madras Presidency									
5.	South Kanara	1,19,89,783	1,35,10,155	1,09,44,005	1,21,47,981	72,94,462	84,75,907	92,79,419	83,49,796
Total		2,50,33,488	2,49,03,098	3,62,65,505	2,87,34,031	3,78,39,044	4,95,47,935	5,84,90,019	4,86,332,135

Note.—This statement does not include Receipts and Expenditure from Forests. Revenue and Expenditure from Provincial Excess have not been included in the figures for 1945-46 and 1946-47.

D. (i)—10 DISTRICTS OF BOMBAY MAHARASHTRA

REVENUE

No.	District	1945-46	1946-47	1947-48	Average
1.	Thana	53,85,941	43,96,177	1,03,51,700	67,01,273
2.	Ahmednagar	30,86,324	37,18,928	74,27,000	47,44,084
3.	E. Khandesh	30,70,504	63,20,430	1,03,01,500	65,64,145
4.	W. Khandesh	24,22,395	41,21,455	67,03,300	44,35,717
5.	Nasik	50,96,969	45,24,798	97,25,100	64,72,239
6.	Poona	1,00,17,911	1,08,05,321	1,60,24,500	1,56,15,911
7.	Satara	39,91,122	38,35,981	73,81,100	47,69,394
8.	Sholapur	33,73,060	36,63,295	97,52,800	55,98,318
9.	Ratnagiri	19,69,178	24,29,540	47,18,700	30,39,139
10.	Kolaba	13,65,272	14,67,312	46,95,700	25,09,428
Grand Total		3,88,48,677	4,53,53,217	9,71,41,200	6,04,47,698
11.	Bombay City (including Bombay Suburbs).	6,56,06,163	6,62,30,034	13,22,82,700	8,80,39,632
Grand Total		10,44,54,840	11,15,83,251	22,94,23,900	14,84,87,330

NOTE.—The Statement does not include Receipts and Expenditure for Forests. Revenue and Expenditure from Provincial Excise have not been included in the figures for 1945-46 and 1946-47.

EXPENDITURE

S.No.	District	1945-46	1946-47	1947-48	Average
1.	Thana	1,68,37,586	1,12,10,428	1,40,21,800	1,40,23,271
2.	Ahmednagar	67,92,108	1,02,22,873	1,29,16,900	99,77,293
3.	E. Khandesh	84,14,821	58,59,743	1,48,59,500	97,11,355
4.	W. Khandesh	47,50,237	58,73,717	1,14,64,018	73,62,857
5.	Nasik	77,04,222	90,45,798	1,48,41,600	1,05,30,540
6.	Poona	2,54,01,842	2,75,57,027	4,11,96,800	3,13,85,223
7.	Satara	91,30,414	80,31,368	1,40,44,300	1,04,02,047
8.	Sholapur	69,43,705	67,79,261	1,25,88,200	87,70,389
9.	Ratnagiri	63,32,571	75,23,709	1,30,19,200	89,58,493
10.	Kolaba	20,77,827	31,48,018	62,53,400	38,26,415
Grand Total		9,43,85,331	9,52,51,942	15,52,06,318	11,49,47,853
11.	Bombay City (including Bombay Suburbs).	5,52,36,759	7,84,58,077	7,64,07,400	7,00,34,079
Grand Total		14,96,22,090	17,37,10,019	23,16,13,718	18,49,81,942

NOTE.—The Statement does not include Receipts and Expenditure for Forests. Revenue and Expenditure from Provincial Excise have not been included in the figures for 1945-46 and 1946-47.

(ii) 8 DISTRICTS OF C. P. MAHARASHTRA
REVENUE

District	1945-46	1946-47	1947-48	Average
1. Akola	60,17,693	60,27,834	63,96,017	61,47,215
2. Amraoti	84,17,515	86,62,031	77,76,668	82,85,405
3. Buldana	51,80,008	53,90,854	56,61,530	54,10,799
4. Yeotmal	42,43,074	45,38,488	47,47,515	45,09,692
5. Bhandara	52,45,969	53,88,786	49,09,835	51,81,530
6. Chanda	39,47,128	57,27,479	60,99,043	62,57,883
7. Nagpur	1,30,18,280	1,20,26,561	1,37,98,609	1,29,47,817
8. Wardha	16,91,400	18,41,847	18,41,847	17,91,698
Total	4,77,61,067	4,96,03,980	5,12,31,070	4,95,32,039

*Based on the figures supplied by the A.G.,C.P. and does not include Taxes on Income, Extraordinary Receipts, and Miscellaneous adjustments.

EXPENDITURE

District	1945-46	1946-47	1947-48	Average
1. Akola	46,20,824	61,30,517	72,42,484	59,97,942
2. Amraoti	61,88,380	74,12,786	85,46,241	73,75,802
3. Buldana	25,85,034	32,58,831	39,70,499	32,71,455
4. Yeotmal	24,90,011	28,44,439	33,40,887	28,91,779
5. Bhandara	17,49,583	22,38,171	27,23,275	22,37,010
6. Chanda	33,87,689	35,75,677	39,01,268	36,21,545
7. Nagpur	4,64,98,106	4,52,50,622	3,12,58,228	4,10,02,319
8. Wardha	12,42,443	17,25,658	20,79,374	16,82,492
Total	6,87,42,070	7,24,36,701	6,30,62,256	6,80,80,344

STATEMENT II

Statement of Revenue and Expenditure by Major Heads of Account

A-ANDHRA

REVENUE

(In lakhs of rupees)

Year	VIII Land Revenue	VIII Pro. Excise	IX Stamps	X Forests	XI Registra- tion	XII Receipts from M.V. Accts.	XIII Other taxes and duties	XLI Receipts from elec.	Other heads	Total
1945-46	.	.	119.18	45.87	21.04	23.80	182.07	11.89	252.91	1540.25
1946-47	.	.	137.14	35.40	22.90	34.54	208.68	13.22	502.60	1718.1
1947-48	.	.	104.80	55.50	24.62	44.86	250.41	15.32	430.37	1703.00

23

EXPENDITURE

(In lakhs of rupees)

Year	25 Gen. Admn.	27 Admn. of Justice	28 Jails	29 Police	37 Educa- tion	38 Medical and 39 P.H.	40 Agri. 41 Vet. 42 Co-op.	43 In- dustries	55 Pensions	Other heads	Total
1945-46	.	.	16.96	103.75	170.34	90.96	61.88	12.72	47.17	480.91	1204.49
1946-47	.	.	17.83	137.62	227.41	116.85	66.84	29.03	48.96	1201.30	2144.64
1947-48	.	.	22.86	165.24	266.93	165.73	90.16	27.45	54.57	620.13	1703.84

B-KERALA

REVENUE

(In lakhs of rupees)

Year	VII Land Revenue	VIII Provincial Excise	IX Stamps	X Forests	XI Regis- tration	XII Receipts from M.V. Accts.	XIII Other taxes and duties	XIV Receipts from electr. schemes	Other heads	Total
1945-46	48.82	65.87	27.93	27.12	7.62	8.69	62.98	..	68.98	316.01
1946-47	23.57	77.55	22.91	33.38	7.85	10.90	73.84	..	112.98	362.78
1947-48	47.85	41.00	13.32	39.99	7.79	15.00	80.42	..	119.19	364.56

EXPENDITURE

(In lakhs of rupees)

Year	25 Gen. Admn.	27 Admn. of Justice	28 Jails	29 Police	37 Edu- cation	38 Medi- cal and 39 P.H.	40 Agri. 41. Vet. 42. Co-op.	43 Indus- tries	55 Pensions	Other heads	Total
1945-46	19.79	12.50	3.62	25.26	4.69	19.01	5.32	21.22	14.94	99.11	285.46
1946-47	15.63	13.63	3.96	27.09	84.04	25.34	14.50	14.52	16.23	249.23	464.16
1947-48	23.17	19.38	4.76	32.34	110.23	24.63	11.62	28.88	18.32	123.04	408.15

C-KARNATAKA

(In lakhs of rupees)

RECEIPTS

Year	VII Land Revenue	VIII Provincial Excise	IX Stamps	X Forests	XII Receipts under Motor Vehicles	XIII other Taxes & duties	XXIX Agriculture	Other heads	Total
1945-46	97.79	Not shown	29.20	Not shown	7.30	23.32	7.23	127.79	292.63
1946-47	79.41	"	31.18	"	10.96	27.24	6.67	114.47	269.93
1947-48	86.91	119.88	32.97	73.01	14.39	53.06	13.01	42.41	440.64

(In lakhs of rupees)

EXPENDITURE

Year	10 Forest	25 Genl. Admn.	27 Justice	29 Police	37 Education	38 Medical	40 Agri- culture	50 Civil Works	55 Super- annuation, etc.	Other heads	Total
1945-46	Not shown	43.28	15.09	36.65	65.65	8.8	61.18	44.51	20.86	85.35	381.58
1946-47	"	59.37	16.07	56.86	99.68	10.01	60.96	41.60	21.67	128.41	494.63
1947-48	54.11	70.13	18.80	70.21	134.56	28.26	40.62	47.42	22.27	152.81	638.99

D.(4)—MAHARASHTRA (Bombay portion)
(including Bombay City)

RECEIPTS

Year	VII Land Revenue	VIII Provincial Excise	IX Stamps	X Forests	(In lakhs of rupees)		
					XIII Other Taxes & Duties	Other heads	Total
1945-46	144.09	Not supplied	171.83	Not supplied	362.01	366.60	10,44.53
1946-47	195.04	"	233.56	"	321.84	365.38	11,15.82
1947-48	230.24	605.54	280.81	119.20	730.74	327.70	22,94.23

235

EXPENDITURE

Year	10 Forests	25 Genl. Admn.	27 Admn. of Justice	29 Police	37 Edu- cation	38 Medical	40 Agri- culture	50 Civil Works	55 Super. annuities, etc.	(In lakhs of rupees)	
										Other heads	Total
1945-46	.	128.07	58.94	215.91	175.33	81.56	91.02	233.23	85.04	427.08	1496.13
1946-47	.	153.41	62.25	386.34	104.37	88.35	110.68	143.01	77.03	611.61	1737.05
1947-48	.	153.17	68.35	396.64	378.87	113.52	221.31	159.46	80.79	743.98	2317.20

— (ii) C. P. MAHARASHTRA

REVENUE

(In lakhs of rupees)

Year	VII Land Revenue	VIII Excise	IX Stamps	X Forests	XIII Other Taxes and Duties	XXIII Police	Other heads	Total
1945-46	16.33	74.97	*4,90.19
1946-47	5.19	1,98.81	*5,77.33
1947-48	10.28	1,94.51	*610.36

*These figures do not include Taxes on Income.

EXPENDITURE

(In lakhs of rupees)

Year	10 Forests	22 Interest on debt and other obliga- tions	23 Appro- priation for reduction or avoid- ance of debt	25 Gen. Admn. Justice	27 Admn. of Justice	29 Police	37 Edu- cation	50 Civil Works	55 Superan- uation	64 A.Tr. Revenue Reserve Develop- ment Fund	Other heads	Total
1945-46	39.71	20.76	29.25	69.72	20.39	48.35	40.30	51.73	44.33	2,14.25	1,09.22	6,88.01
1946-47	32.81	20.63	18.15	82.55	22.09	70.96	63.59	66.41	45.81	1,74.01	1,27.32	7,24.33
1947-48	32.14	20.55	13.01	1,00.09	21.69	76.05	93.86	80.89	45.61	..	1,47.67	6,30.56

STATEMENT III

STATEMENT OF ASSETS AND LIABILITIES AS ON 31ST MARCH 1949

(i) Statement showing the capital liabilities and assets of the Madras Government

Details	31st March 1949 (Budget Estimate) Rs. Lakhs
<i>Liabilities</i>	
A. BEARING INTEREST—	
(i) <i>Loans—</i>	
(a) Due to the Central Government	9,34.07
(b) Open Market Loans	15,52.73
(c) Special irredeemable loans	2.52
TOTAL—(i) Loans	24,89.32
(ii) <i>Other liabilities—</i>	
(a) State Provident Funds	5,42.96
(b) Depreciation Reserve Funds of Commercial undertakings	6.85
TOTAL—(ii) other Liabilities	5,49.81
TOTAL—A. Interest—Bearing Liabilities	30,39.13
B. FREE OF INTEREST—	
(i) Sinking Funds	2,77.36
(ii) Famine Relief Fund	44.34
(iii) Electricity Reserve Funds	1,95.21
(iv) Deposits, Advances and Remittances	40,40.30
TOTAL—B. Liabilities—Free of Interest	46,57.21
C. GRAND TOTAL—Liabilities	76,96.34
<i>Assets</i>	
A. ASSETS PRODUCING REVENUE—	
(i) <i>Productive—</i>	
(a) Productive Irrigation Works	16,07.68
(b) Electricity Schemes	19,10.49
(c) Cinchona Plantations	1,34.80
(d) Kerala Soap Institute	3.57
(e) Industrial Engineering Workshops	1.97
(f) Hydrogenation Factory	11.70
(g) Loans advanced (due to Government)	10,48.37
(h) Shares in Private Industrial Concerns	98.25
(i) Capital outlay on Madras City Bus Service	73.27
TOTAL—(i) Productive	43,90.10
(ii) <i>Unproductive—</i>	
(a) Unproductive Irrigation Works†	994.64
(b) Navigation Works †	96.26
TOTAL—(ii) Unproductive	10,95.90
TOTAL—D. Assets producing revenue]	59,86.00

STATEMENT SHOWING THE CAPITAL LIABILITIES AND ASSETS OF THE MADRAS GOVERNMENT AS ON THE 31ST MARCH 1949—contd.

Details		31st March 1949 (Budget Estimate) Rs. Lakhs.
Assets—contd.	Brought forward	59,86.00
E.—OTHER ASSETS—		
M. Capital outlay on civil works outside the revenue account.		2,74.47
F. Securities in the Sinking Fund Investment Accounts		1,84.74
G. Securities in the Famine Relief Fund		44.30
H. Securities in the Electricity Reserve Funds		1,94.54
I. Securities in the Cash Balance Investment Account		3,78.90
J. Securities in the Revenue Reserve Fund†		23,31.99
K. Closing Cash Balance		74.7
	L. Grand Total—Assets	94,69.68
	M. Excess of Assets over Liabilities	17,73.34

*Includes Rs. 51 lakhs in the Budget for purchase of shares of the Industrial Finance Corporation proposed to be started.

† Includes Rs. 49.62 lakhs relating to outlay on special accelerated and widespread programme of improvements to minor Irrigation Works classified under 'Capital'.

‡Purchase price of securities.

(ii) Statement showing the capital liabilities and assets of the Bombay Government Liabilities

		31st March 1949 (In thousands of Rs.)
(i) Loans—		
(a) Due to the Central Government		14,33,73
(b) Open Market Loans—		
(i) Loans for repayment of part of consolidated debt		10,48,23
(ii) Unclaimed Bombay Devt. Loan		98
	Total Loans	24,82,94
(ii) Other Liabilities—		
State Provident Funds		5,14,07
Depreciation Reserve Fund of commercial undertakings		18,67
	Total—(ii) Other Liabilities	5,32,74
	Total—A.—Interest bearing liabilities	30,15,68
B. FREE OF INTEREST—		
(i) Famine Relief Fund		67,68
(ii) Provincial Road Fund		1,44,18
(iii) Deposits, Advances and Remittances		24,16,81
	Total—B.—Liabilities free of interest	26,28,67
	C.—Grand Total—Liabilities	56,44,35
D. ASSETS (PRODUCING REVENUE)—		
(i) Productive—		
(a) Productive Irrigation Works		13,75
(b) Electricity Schemes		1,69,85
(c) Bombay Development Department		8,72,36
(d) Loans and advances (due to Government)		4,83,97
	Total—(i) Productive	15,39,93

Assets

31st March
1949

(ii) Unproductive—	
(a) Unproductive Irrigation Works	11,39,66
Total (ii) Unproductive	11,39,66
Total D. Assets (producing revenue)	26,79,59
E. Loans due from the Bombay Municipal Corporation	7,73,69
F. Investment in Securities—	
(i) Sinking Fund Investment Account*	3,30,13†
(ii) Debt Redemption and Avoidance Fund*	10,48,45†
(iii) Investment in Treasury Bills out of Depreciation Funds of 3 per cent. Loans*	48,00
(iv) Nasik Distillery Depreciation Fund*	16,83
(v) Bombay Famine Relief Fund‡	67,68
(vi) Securities in the Cash Balance Investment Account‡	10,99,68
Total Assets E & F.	33,84,46
K. CLOSING CASH BALANCE—	
Central Road Fund	6,12
Provincial Road Fund	1,44,18
Press Depreciation Reserve Fund	15
Nasik Distillery Depreciation Fund	1,23
Other Accounts (Grant for Specific purposes)	8,10
Balance with the Reserve Bank and Treasuries	41,00
Capital Expenditure met from balance	—29,72
Other debt heads (excluding Civil Deposits and Advances Repayable)	4,42
Civil Deposits	4,05,19
Advances Repayable	—58,10
Special Development Fund	2,18,52
Post War Reconstruction Fund	16,10,00
Free balance	8,22,45
Total Assets K@	31,73,54
L. Grand Total of Assets	92,37,59
M. Excess of Assets over Liabilities	35,93,24
(iii) C. P. & Berar—	
No Statement of Assets and Liabilities was received from the Government of C. P. and Berar.	

*Face value.

†These are face values on 31st October 1948.

‡Purchase Price.

@A major portion of this is invested in three-monthly treasury bills of the Government of India.

REPORT OF THE ADVISORY COMMITTEE ON THE SUBJECT OF
CERTAIN POLITICAL SAFEGUARDS FOR MINORITIES

COUNCIL HOUSE,
New Delhi, the 11th May, 1949.

FROM

THE HON'BLE SARDAR VALLABHBHAI PATEL,
CHAIRMAN, ADVISORY COMMITTEE ON
MINORITIES, FUNDAMENTAL RIGHTS, ETC.

TO

THE PRESIDENT,
CONSTITUENT ASSEMBLY OF INDIA.

DEAR SIR,

The Advisory Committee on Minorities, Fundamental Rights, etc., in their report dated the 8th of August, 1947, had recommended certain political safeguards for Minorities. These were accepted by the Constituent Assembly during the August 1947 session, and have been embodied in Part XIV of the Draft Constitution. According to these recommendations, all elections to the Central and Provincial Legislatures were to be held on the basis of joint electorates with reservation of seats for certain specified minorities on their population basis. This reservation was to be for a period of ten years at the end of which the position was to be reconsidered. There was to be no weightage, but members of the minority communities for whom seats were reserved were to have the right to contest general seats. The communities for whom seats were to be reserved were Muslims, Scheduled Castes and Indian Christians, the latter only so far as the Central Legislature and the Provincial Legislatures of Madras and Bombay are concerned.

2. I would recall to your mind at this stage that the Committee had observed in their report that minorities were "by no means unanimous as to the necessity, in their own interests, of statutory reservation of seats in the legislatures". Nevertheless, the Committee had recommended reservation of seats "in order that minorities may not feel apprehensive about the effect of a system of unrestricted joint electorates on the quantum of their representation in the legislature".

3. When the above recommendations were being considered by the Assembly, events were taking place, following the partition of the country, which made it impossible to consider the question of minority rights in East Punjab, particularly in so far as the Sikhs were concerned. This question of East Punjab was accordingly postponed; and also the question whether the right to contest unreserved seats should be given to minorities in West Bengal.

4. The Advisory Committee in their meeting held on the 24th February, 1948, appointed a special sub-Committee consisting of myself as Chairman and the—

Hon'ble Pandit Jawaharlal Nehru,

Hon'ble Dr. Rajendra Prasad,

Shri K. M. Munshi, and the

Hon'ble Dr. B. R. Ambedkar,

as members to report on these minority problems affecting East Punjab and West Bengal. This special sub-committee met on the 23rd November 1948 and presented a report to the Advisory Committee. A copy of the report is attached as an Appendix.

5. This report came up for consideration before the Advisory Committee at their meeting held on the 30th December, 1948. Some members of the Committee felt that, conditions having vastly changed since the Advisory Committee made their recommendations in 1947, it was no longer appropriate in the context of free India and of present conditions that there should be reservation of seats for Muslims, Christians, Sikhs or any other religious minority. Although the abolition of separate electorates had removed much of the poison from the body politic, the reservation of seats for religious communities, it was felt, did lead to a certain degree of separatism and was to that extent contrary to the conception of a secular democratic State. Dr. H. C. Mookerjee, Mr. Tajamul Husain, Shri Lakshmi Kant Maitra and certain other members gave notices of resolutions seeking to recommend to the Constituent Assembly that there should be no reservation of seats in the Legislatures for any community in India. Shri V. I. Muniswami Pillai gave notice of an amendment to the said resolutions seeking to exclude the Scheduled Castes from the purview of the said resolutions. At that meeting I pointed out that if the members of a particular community genuinely felt that their interests were better served by the abolition of reserved seats, their views must naturally be given due weight and the matter allowed to be reopened. At the same time I was anxious that the representatives of the minorities on the Committee should have adequate time both to gauge public opinion among their people and to reflect fully on the amendments that had been proposed, so that a change, if effected, would be one sought voluntarily by the minorities themselves had not imposed on them by the majority community. Accordingly the Committee adjourned without taking any decision and we met again on the 11th of May, 1949. At this meeting, the resolution of Dr. H. C. Mookerjee found wholehearted support of an over-whelming majority of the members of the Advisory Committee. It was recognised, however, that the peculiar position of the Scheduled Castes would make it necessary to give them reservation for a period of ten years as originally decided. Accordingly the Advisory Committee, with one dissenting voice, passed the said resolution as amended by Shri V. I. Muniswami Pillai in the following form:—

सत्यमेव जयते

“That the system of reservation for minorities other than Scheduled Castes in Legislatures be abolished.”

It was further decided that nothing contained in the said resolution shall affect the recommendations made by the North East Frontier (Assam) Tribal and Excluded Areas Sub-Committee and Excluded and Partially Excluded Areas (other than Assam) Sub-Committee with regard to representation of tribals in the Legislatures. The Committee also decided that the resolution should not affect the special provision made for the representation of Anglo-Indians in the legislature.

6. The Committee also accepted the unanimous proposal made by the Sikh representatives that the following classes in East Punjab, namely Mazhabis, Ramdasis, Kabirpanthis and Sikligars, who suffer the same disabilities as other members of the Scheduled Castes, should be included in the list of Scheduled Castes so that they would get the benefit of representation given to the Scheduled Castes. Subject to this change and to the above mentioned resolution, the report of the special sub-committee appointed by the Advisory Committee was approved.

7. As a result of the above decisions, the resolutions seeking to do away with the rights of minorities to contest general seats in addition to reserved seats in Assam and West Bengal, of which notices had been given by some members of the Committee, were withdrawn.

8. The Committee are fully alive to the fact that decisions once reached should not be changed lightly. Conditions have, however, vastly changed since August 1947 and the Committee are satisfied that the minorities themselves feel that in their own interests, no less than in the interests of the country as a whole, the statutory reservation of seats for religious minorities should be abolished. The Committee accordingly recommend that the provisions of Part XIV of the Draft Constitution should be amended in the light of the decisions now taken.

Yours truly,

VALLABHBHAI PATEL,

Chairman.



APPENDIX

Report of the Special Sub-Committee referred to in paragraph 4 of the Advisory Committee's Report

At a meeting held on the 24th February 1948 the Advisory Committee on Minorities, Fundamental Rights etc. appointed a Sub-Committee consisting of Sardar Vallabhbhai Patel, as Chairman, and Pandit Jawaharlal Nehru, Dr. Rajendra Prasad, Dr. Ambedkar and Mr. Munshi as Members, to report on certain minority problems affecting East Punjab and West Bengal. We met on the 23rd November and herewith present our report. We much regret that on account of his illness Dr. Rajendra Prasad was unable to be present during our deliberations and to give us the benefit of his counsel, but we understand from him that he is in complete accord with the conclusions which we have reached.

2. The Advisory Committee will recall that at a session held in August 1947 the Constituent Assembly considered the problem of what may broadly be described as political safeguards for minorities and came to the following conclusions:—

- (i) That all elections to the Central and Provincial Legislatures will be held on the basis of joint electorates with reservation of seats for certain specified minorities on their population ratio. This reservation shall be for a period of ten years at the end of which the position is to be reconsidered. There shall be no weightage. But members of the minority communities for whom seats are reserved shall have the right to contest general seats.
- (ii) That there shall be no statutory reservation of seats for the minorities in Cabinets, but a convention on the lines of paragraph VII of the Instrument of Instructions issued to Governors under the Government of India Act, 1935, shall be provided in a Schedule to the Constitution;
- (iii) That in the All-India and Provincial Services the claims of minorities shall be kept in view in making appointments to these services consistently with consideration of efficiency of administration; and
- (iv) That to ensure protection of minority rights an Officer shall be appointed by the President at the Centre and the Governors in the Provinces to report to the Union and Provincial Legislatures respectively about the working of the safeguards.

These decisions were reached at a time when the effect of the Radcliffe Award on the population structure of the East Punjab and the West Bengal Provinces was not accurately known, and a tragic and immense migration of populations was taking place across the frontiers of the East and West Punjab. The Assembly accordingly decided to postpone consideration of the whole question of minority rights in the political field to be provided in the Constitution for Sikhs and other minorities in the East Punjab. They also agreed, at the suggestion of the representatives of West Bengal, to postpone consideration of the question as to whether minorities in that Province should have the right to contest general seats in addition to having seats reserved for them according to population strength.

3. The most important problem referred to us is the problem of the Sikhs. We have examined carefully the demands put forward on their behalf by different organisations and individuals; these vary from suggestions that no special constitutional safeguards are necessary to the very

forthright demands of the Shromani Akali Dal. In the main these demands are—

- (i) that the Sikhs should have the right to elect representatives to the Legislature through a purely communal electorate;
 - (ii) that in the Provincial Legislature of East Punjab 50 per cent. of the seats and in the Central Legislature 5 per cent. should be reserved for the Sikhs;
 - (iii) that seats should be reserved for them in the U.P. and Delhi;
 - (iv) that Scheduled Caste Sikhs should have the same privileges as other Scheduled Castes; and
- that there should be a statutory reservation of a certain proportion of places in the Army.

It will be noticed that these suggestions are a fundamental departure from the decisions taken by the Assembly in respect of every other community including the Scheduled Castes.

4. It seems scarcely necessary for us to say that in dealing with this problem we are actually aware of the tragic sufferings which the Sikh community suffered both before and after the partition of the Punjab. The holocaust in West Punjab has deprived them of many valuable lives and great material wealth; moreover, while in these respects, the Hindus suffered equally with the Sikhs, the special tragedy of the Sikhs was that they had also to abandon many places particularly sacred to their religion. But while we fully understand the emotional and physical strain to which they have been subjected, we are clear in our minds that the question remitted to us for consideration must be settled on different grounds.

5. The Sikhs are a minority from the point of view of numbers, but they do not suffer from any of the other handicaps which affect the other communities dealt with by the Advisory Committee. They are a highly educated and virile community with great gifts not merely as soldiers but as farmers and artisans, and with a most remarkable spirit of enterprise. There is, in fact, no field of activity in which they need fear comparison with any other community in the country, and we have every confidence that, with the talents they possess, they will soon reach a level of prosperity which will be the envy of other communities. Moreover, while, in the undivided Punjab, they were only 14 per cent. of the population, they form nearly 30 per cent. of the population in East Punjab, a strength which gives them, in the public life of the Province, a position of considerable authority.

6. We have come to the conclusion that we cannot recommend either communal electorates or weightage in the Legislature which are the main demands of the Shromani Akali Dal. In the first place they are not necessary for the well-being of the Sikhs themselves for the reasons we have stated above. Indeed it seems to us that under a system of joint electorates with reserved seats and with the right to contest additional seats the Sikhs are likely to get greater representation than is strictly warranted on the population basis whereas on a system of communal electorates, their representation will be limited. The only way in which this representation could be increased beyond the population basis is to give weightage which means trenching compulsorily on what other communities legitimately regard as their right. In the second place, communal electorates and weightage are definitely retrograde from the point of view of the general interests of the country. The demands of the Dal

are, in principle, precisely those which the Muslim League demanded for the Muslims and which led to the tragic consequences with which the country is all too familiar. We feel convinced that if we are to build a strong State which will hold together in times of peace and war, of prosperity and adversity, the Constitution should contain no provision which would have the effect of isolating any section of the people from the main stream of public life. In this connection we would recall the following resolution passed by the Constituent Assembly at its meeting held on the 3rd April, 1948:—

“Whereas it is essential for the proper functioning of democracy and the growth of national unity and solidarity that communalism should be eliminated from Indian life, this Assembly is of opinion that no communal organisation which by its constitution or by the exercise of discretionary power vested in any of its officers or organs, admits to or excludes from its membership persons on grounds of religion, race and caste, or any of them, should be permitted to engage in any activities other than those essential for the *bona fide* religious, cultural, social and educational needs of the community, and that all steps, legislative and administrative, necessary to prevent such activities should be taken.”

It is not always easy to define communalism, but there could be little doubt that separate electorates are both a cause and an aggravated manifestation of this spirit. The demands of the Dal are thus wholly at variance with the considered judgment of the Assembly.

If the Constitution guaranteed special safeguards such as communal electorates and weightage to the Sikhs we fear that it would be impossible to justify denying the same privileges to certain other communities. The detailed arguments may vary but the main approach will be similar. We would mention in this connection only the Scheduled Castes whose standards of education and material well-being are, even on Indian standards, extremely low and who, moreover, suffer from grievous social disabilities. They have contented themselves with the Provisions approved by the Assembly and referred to in paragraph 2 above. We cannot conceive of any valid argument which would justify the inclusion in the Constitution of safeguards for the Sikhs which are not available to the Scheduled Castes. The case of the Scheduled Caste is merely illustrative. We feel convinced that to accede to the demands of the Shromani Akali Dal will lead, by an inevitable extension of similar privileges to other communities, to a disrupting of the whole conception of the Secular State which is to be the basis of our new Constitution.

7. We recommend accordingly that no special provision should be provided for the Sikhs other than the general provisions already approved by the Assembly for certain other minorities and summarised in para. 2.

8. The only reason why the Assembly postponed consideration of the question of giving to minorities in West Bengal the right to contest unreserved seats was that it was pointed out by the West Bengal representatives that the population structure of that Province was not known at that time. Although, on account of the recent exodus from East Bengal, any accurate estimate of the numbers of different communities in West Bengal is a matter of some conjecture, the broad picture is known clearly enough and we do not think there are any reasons why the arrangements already approved by the Assembly for other Provinces should not be applied to West Bengal.

VALLABHBHAI PATEL

REPORT OF THE DRAFTING COMMITTEE ON THE DRAFT CONSTITUTION OF INDIA AS REVISED BY THAT COMMITTEE

NEW DELHI,
The 3rd November, 1949.

To

THE HON'BLE THE PRESIDENT,
CONSTITUENT ASSEMBLY OF INDIA,
NEW DELHI.

DEAR SIR,

We the undersigned members of the Drafting Committee to which the Draft Constitution as passed by the Constituent Assembly at the second reading was referred by you under sub-rule (1) of rule 38-R of the Constituent Assembly Rules have examined the Draft Constitution and beg to submit this our Report with the Draft Constitution as revised by us annexed hereto.

2. The changes that we have recommended in the Draft Constitution fall broadly under four categories:—

- (a) The renumbering of articles, clauses and sub-clauses, and the revision of punctuation;
- (b) formal and consequential alterations, such as, the omission of the words "of this Constitution", the changes in the use of capital letters, the alteration of the reference to Ruler to "Rajpramukh";
- (c) certain necessary alterations proposed for making the meaning of some of the articles clearer or for filling up any lacuna in an article without making any substantial change in the content thereof;
- (d) certain other necessary amendments, whether by way of addition of new articles or by way of revision of the existing articles to remedy the defects and omissions that the scrutiny of the Draft Constitution has revealed to us.

3. In renumbering the articles we have in certain cases changed the order in which they appeared in the Draft Constitution. We have brought the Part containing the Emergency provisions immediately after the Part containing the provisions relating to Language as we considered this arrangement to be more appropriate.

We have also changed the numbering of Parts I, II, III and IV of the First Schedule to Parts A, C, B and D respectively in order to avoid confusion with the Parts of the Draft Constitution. It was suggested to us that Part III of this Schedule containing the names and territories of Indian States and Unions of States should be brought immediately after Part I and renumbered as Part II. We have accordingly categorised Part III of the First Schedule as Part B. Changes of a similar nature in regard to numbering of Parts have also been made in the other Schedules.

We have also made changes in the order of the entries appearing in Lists I, II and III of the Seventh Schedule so as to group together the entries which are related. In some cases we have split up entries where we have considered this suitable. In other cases we have combined two entries into one. For facility of reference, both the old and new numbers of the entries have been shown in the revised Draft.

We are not making any detailed mention of the changes referred to in categories (a), (b) and (c) in paragraph 2 above. The more important changes under categories (b) and (c) and the changes under category (d) have been indicated in the revised Draft; where words have been substituted or new words inserted, they are indicated in italics, and where words have been omitted they are indicated by asterisks.

4. On the more important changes proposed by us, we would offer the following observations:—

Article 5.—We have removed the proviso from article 5 and made it a new article 9, so that the provisions thereof may apply to persons acquiring citizenship not only under article 5 but also under articles 6 and 8.

Article 21 (old 15).—We have considered it more appropriate to split up this article into two parts and to transfer the latter part of this article dealing with “equality before law” to a new article 14 under the heading “Right to Equality”.

Article 22 (old 15A).—The changes proposed in this article are of a drafting nature. The proviso to clause (3) of the original article has been converted into a new clause (4). We have felt that clauses (4) and (7) of this article as revised may create some difficulty as there would not be any law made by Parliament in force immediately on the commencement of the Constitution in accordance with which persons may be kept under detention for a period longer than three months. We have therefore proposed a new article 373 whereby power has been given to the President to issue an order in terms of clause (7) of article 22 which will have effect until the expiration of one year from the commencement of the Constitution or until Parliament takes action under the said clause, whichever is earlier.

Article 31 (old 24).—We have recast clauses (4), (5) and (6) of this article but no change of substance has been made therein except in clause (6). Clause (6) has been expanded to cover certain laws relating to evacuee property passed by the Central Legislature within eighteen months before the commencement of the Constitution.

Article 34 (new).—It was pointed out to us that the fundamental rights in the Constitution might prevent validation by the Legislature of acts done during the period when martial law is in force and also prevent the indemnifying of persons in the service of the Union or of a State in respect of action taken by them during such period. This new article has been suggested by us accordingly to cover this contingency.

Articles 77 (old 64) and 166 (old 146).—A new clause has been added to each of these two articles for authorising the President or the Governor, as the case may be, to make rules for the conduct of the business of the Government of India or the Government of the State, as the case may be, and for the allocation among Ministers of the said business. This power finds a specific mention in the Government of India Act, 1935, and we consider the insertion of such a clause to be necessary.

Articles 100 (old 80) and 189 (old 164).—These two articles deal with the question of quorum in Parliament and in the Houses of the Legislatures of the States. The quorum was fixed at one-sixth both for Parliament and the State Legislatures. It was pointed out to us that in actual practice it might prove unworkable. In the case of the Constituent Assembly (Legislative), the provision in the Government of India Act, 1935, relating to quorum in the Dominion Legislature was amended so as to fix the quorum at one-tenth instead of one-sixth. The analogy of the House of Commons of the Parliament of the United Kingdom was also pointed out to us where the quorum is only 40 which is less than one-fifteenth of the total strength of that House. We have accordingly proposed that until Parliament otherwise provides, the quorum in Parliament should be one-tenth of the total number of members of the House. In the case of Legislatures of States, we have provided in article 189 that until the Legislatures of the States otherwise provide the quorum should be one-tenth or ten members, whichever is greater.

Article 222 (new).—We have proposed the insertion of this new article to enable the President to transfer a Judge of a High Court from one High Court to another. The present provision in the Constitution would not permit of any compensatory allowance being given to Judges on such transfer. Power has accordingly been reserved to Parliament to determine by law the compensatory allowance to be paid in case they are so transferred, and, until Parliament so determines, to the President to fix by order the quantum of such allowance.

Article 365 (new).—In certain articles of the Constitution, such as articles 256 (old 233), 257 (old 234 and 234-A), 353 (old 276), 360 (old 280A) and 371 (old 306B), power has been given to the Government of India to give directions to the States in various matters, and in some of these articles it has been mentioned that the failure to give effect to those directions will be deemed to be a failure to carry on the Government of the State in accordance with the provisions of the Constitution. We felt that this particular provision should be put in a separate article and hence we have proposed the insertion of this new article.

Article 391.—It has been pointed out to us that there is a possibility of a further change being made in the territories of the States mentioned in the First Schedule, and that action in this direction might be taken under the existing provisions of the Government of India Act, 1935, between the passing of the Constitution and its commencement. It is therefore felt that authority should be given to the President to take cognizance of these changes on the date when the Constitution comes into force and to make appropriate changes in the First and the Fourth Schedules. This article has accordingly been proposed to empower the President to take the necessary action.

Article 392 (old 313).—A new clause (3) has been proposed for addition to this article giving power to the Governor-General to exercise the power of the President under this article in respect of the articles which will come into force on the passing of the Constitution and before its commencement.

First and Fourth Schedules.—It has been decided to merge Rampur with the United Provinces on the 1st December, 1949. The reference to Rampur has accordingly been deleted from Part C of the First Schedule and from Part C of the Fourth Schedule.

With regard to the names of three Provinces, namely, United Provinces, Central Provinces and Berar, and Assam, the provincial authorities have not yet finally suggested suitable names for insertion in the Constitution

We, therefore, request your permission, notwithstanding the provisions of rule 38-R, to allow us to propose suitable amendments in respect of the names of these three Provinces, should it become necessary, before the House assembles on the 14th November, 1949.

Second Schedule—Paragraphs 9 and 10 (Original Paragraphs 10 and 11).—We have recast clause (3) of paragraph 9 and clause (2) of paragraph 10 to make the intention clearer. We have also made one change of a substantial character in both these clauses, namely, the date “31st October, 1948” mentioned in these clauses has been changed to “the date of the commencement of the Constitution”. This had to be done because action taken subsequent to the 31st October, 1948, has rendered the mention of that date inconsistent with facts subsequently brought to our notice. This had also to be done to remove certain anomalies and to avoid certain practical difficulties pointed out to us.

Seventh Schedule.—The general changes made in this Schedule have been mentioned by us in the earlier part of this report. Besides those changes we have made some consequential changes in the Lists and have also included a new entry “price control” in List III.

In view of the new entry relating to contempt of court inserted in List III at the second reading of the Draft Constitution, it has become necessary to provide in List I a corresponding entry relating to contempt of the Supreme Court, as obviously the Legislature of a State cannot be given power to legislate in respect of contempt of that Court.

We have also added in List II a provision giving power to the Legislature of the State to make laws with respect to the officers and servants of a High Court in view of the specific mention of the Legislature of the State in clause (2) of article 229 (old 205). We have made a corresponding modification in the entry in List I relating to the constitution and organisation of High Courts.

We have also inserted a new entry in List I with regard to the audit of the accounts of the Union and of the States in view of the provisions in article 149 (old 125).

We have included the new entry “price control” in List III to enable necessary powers to be exercised both by Parliament and by the Legislatures of the States to control prices. Article 369 (old 306) confers on Parliament power to make laws with regard to price control in respect of certain essential commodities for a period of five years. Power has been also given to Parliament to control prices of commodities produced by industries, the control of which by the Union is declared by Parliament to be expedient in the public interest. For the sake of the economic unity and stability of the country we consider that both Parliament and the Legislatures of the States should be given power with regard to price control.

Yours truly,

B. R. AMBEDKAR
N. GOPALASWAMI AYYANGAR
A. KRISHNASWAMI AYYAR
K. M. MUNSHI
SAIYID MOHD. SAADULLA
T. T. KRISHNAMACHARI