

should be an Indian. The salaries of the Secretary and the under-Secretaries should be placed on the British estimates.

7. In any scheme of Imperial federation, India should be given, through her chosen representatives, a place similar to that of the self-governing dominions.

8. The Provincial Governments should be made autonomous as stated in the Government of India's dispatch, dated 25 August 1911.

9. The United Provinces as well as the other major provinces should have a Governor brought from the United Kingdom with an Executive Council.

10. A full measure of local self-government should be immediately granted.

11. The right to carry arms should be granted to Indians on the same conditions as to Europeans.

12. Indians should be allowed to enlist as volunteers and units of a territorial army established in India.

13. Commissions in the army should be given to Indian youths under conditions similar to those applicable to Europeans.

3. Scheme of Reforms passed at the 31st session of the Indian National Congress held at Lucknow on 29 December, 1916, and adopted by the All-India Moslem League at its Meeting on 31 December, 1916

I.—PROVINCIAL LEGISLATIVE COUNCILS

1. PROVINCIAL Legislative Councils shall consist of four-fifths elected and of one-fifth nominated members.

2. Their strength shall be not less than one

hundred and twenty-five members in the Major Provinces, and from fifty to seventy-five in the Minor Provinces.

3. The members of Councils should be elected directly by the people on as broad a franchise as possible.

4. Adequate provision should be made for the representation of important minorities by election, and that the Mahomedans should be represented through special electorates on the Provincial Legislative Council.

Punjab—One half of the elected Indian members.

United Provinces—30 per cent. " "

Bengal—40 per cent. " "

Behar—25 per cent. " "

Central Provinces—15 per cent. " "

Madras—15 per cent. " "

Bombay—One-third " "

Provided that Mahomedans shall not participate in any of the other elections to the Legislative Councils.

Provided further that no Bill, nor any clause thereof, nor a resolution introduced by a non-official member affecting one or the other community, which question is to be determined by the members of that community in the Legislative Council concerned, shall be proceeded with, if three-fourths of the members of that community in the particular Council, Imperial or Provincial, oppose the bill or any clause thereof or the resolution.

5. The head of the Provincial Government should not be the President of the Legislative Council, but the Council should have the right of electing its President.

6. The right of asking supplementary questions

should not be restricted to the member putting the original question but should be allowed to be exercised by any other member.

7. (a) Except customs, post, telegraph, mint, salt, opium, railways, army and navy, and tributes from Indian States, all other sources of revenue should be provincial.

(b) There should be no divided heads of revenue. The Government of India should be provided with fixed contributions from the Provincial Governments, such fixed contributions being liable to revision when extraordinary and unforeseen contingencies render such revision necessary.

(c) The Provincial Council should have full authority to deal with all matters affecting the internal administration of the province, including the power to raise loans, to impose and alter taxation and to vote on the Budget. All items of expenditure and all proposals concerning ways and means for raising the necessary revenue should be embodied in Bills and submitted to the Provincial Council for adoption.

(d) Resolutions on all matters within the purview of the Provincial Government should be allowed for discussion in accordance with rules made in that behalf by the Council itself.

(e) A resolution passed by the Legislative Council shall be binding on the Executive Government, unless vetoed by the Governor in Council, provided however that if the resolution is again passed by the Council after an interval of not less than one year, it must be given effect to.

(f) A motion for adjournment may be brought forward for the discussion of a definite matter of urgent public importance if supported by not less than one-eighth of the members present.

8. Any special meeting of the Council may be summoned on a requisition by not less than one-eighth of the members.

9. A Bill, other than a Money Bill, may be introduced in Council in accordance with the rules made in that behalf by the Council itself, and the consent of the Government should not be required therefor.

10. All Bills passed by Provincial Legislatures shall have to receive the assent of the Governor before they become law, but may be vetoed by the Governor-General.

11. The terms of office of the members shall be five years.

II.—PROVINCIAL GOVERNMENTS

1. The head of every Provincial Government shall be a Governor who shall not ordinarily belong to the Indian Civil Service or any of the permanent services.

2. There shall be in every Province an Executive Council which, with the Governor, shall constitute the Executive Government of the Province.

3. Members of the Indian Civil Service shall not ordinarily be appointed to the Executive Councils.

4. Not less than one-half of the members of Executive Council shall consist of Indians to be elected by the elected members of the Provincial Legislative Council.

5. The term of office of the members shall be five years.

III.—IMPERIAL LEGISLATIVE COUNCIL

1. The strength of the Imperial Legislative Council shall be one hundred and fifty.

2. Four-fifths of the members shall be elected.

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

4. The President of the Council shall be elected by the Council itself.

5. The right of asking supplementary questions shall not be restricted to the member putting the original question but should be allowed to be exercised by any other member.

6. Any special meeting of the Council may be summoned on a requisition by not less than one-eighth of the members.

7. A Bill, other than a Money Bill, may be introduced in Council in accordance with rules made in that behalf by the Council itself, and the consent of the Executive Government should not be required therefor.

8. All Bills passed by the Council shall have to receive the assent of the Governor-General before they become law.

9. All financial proposals relating to sources of income and items of expenditure shall be embodied in Bills. Every such Bill and the Budget as a whole shall be submitted for the vote of the Imperial Legislative Council.

10. The term of office of members shall be five years.

11. The matters mentioned hereinbelow shall be exclusively under the control of the Imperial Legislative Council:

(a) Matters in regard to which uniform legislation for the whole of India is desirable.

(b) Provincial legislation in so far as it may affect inter-provincial fiscal relations.

(c) Questions affecting purely Imperial revenue, excepting tributes from Indian States.

(d) Questions affecting purely Imperial expenditure, except that no resolution of the Imperial Legislative Council shall be binding on the Governor-General in Council in respect of military charges for the defence of the country.

(e) The right of revising Indian tariffs and customs-duties, of imposing, altering, or removing any tax or cess, modifying the existing system of currency and banking, and granting any aids or bounties to any or all deserving and nascent industries of the country.

(f) Resolutions on all matters relating to the administration of the country as a whole.

12. A resolution passed by the Legislative Council should be binding on the Executive Government, unless vetoed by the Governor-General in Council: provided, however, that, if the resolution is again passed by the Council after an interval of not less than one year, it must be given effect to.

13. A motion for adjournment may be brought forward for the discussion of a definite matter of urgent public importance, if supported by not less than one-eighth of the members present.

14. The Crown may exercise its power of veto in regard to a Bill passed by a Provincial Legislative Council or by the Imperial Legislative Council within twelve months from the date on which it is passed, and the Bill shall cease to have effect as from the date on which the fact of such veto is made known to the Legislative Council concerned.

15. The Imperial Legislative Council shall have no power to interfere with the Government of India's direction of the military affairs and the foreign and political relations of India, including the declaration of war, the making of peace and the entering into treaties.

IV.—THE GOVERNMENT OF INDIA

1. The Governor-General of India will be the head of the Government of India.

2. He will have an Executive Council, half of whom shall be Indians.

3. The Indian members should be elected by the elected members of the Imperial Legislative Council.

4. Members of the Indian Civil Service shall not ordinarily be appointed to the Executive Council of the Governor-General.

5. The power of making all appointments in the Imperial Civil Services shall vest in the Government of India as constituted under this scheme, and subject to any laws that may be made by the Imperial Legislative Council.

6. The Government of India shall not ordinarily interfere in the local affairs of a province, and powers not specifically given to a Provincial Government shall be deemed to be vested in the former. The authority of the Government of India will ordinarily be limited to general supervision and superintendence over the Provincial Governments.

7. In legislative and administrative matters, the Government of India, as constituted under this scheme, shall, as far as possible, be independent of the Secretary of State.

8. A system of independent audit of the accounts of the Government of India should be instituted.

V.—THE SECRETARY OF STATE IN COUNCIL

1. The Council of the Secretary of State for India should be abolished.

2. The salary of the Secretary of State should be placed on the British Estimates.

3. The Secretary of State should, as far as possible, occupy the same position in relation to the Government of India as the Secretary of State for the Colonies in relation to the Governments of the self-governing Dominions.

4. The Secretary of State for India should be assisted by two permanent under-secretaries, one of whom should always be an Indian.

VI.—MILITARY AND OTHER MATTERS OF POLICY

1. The military and naval services of His Majesty, both in their commissioned and non-commissioned ranks, should be thrown open to Indians and adequate provision should be made for their selection, training and instruction in India.

2. Indians should be allowed to enlist as volunteers.

3. Indians should be placed on a footing of equality in respect of status and rights of citizenship with other subjects of His Majesty the King throughout the Empire.

4. The Executive Officers in India shall have no judicial powers entrusted to them, and the judiciary in every province shall be placed under the highest Court of that province.

4. *Resolutions VII, IX, and XXII of the Imperial War Conference, April 1917*

VII

REPRESENTATION OF INDIA AT FUTURE IMPERIAL CONFERENCES

(Eighth Day ; Friday, April 13th.)

That the Imperial War Conference desires to place on record its view that the Resolution of the Imperial Conference of 20th April 1907 should be modified to permit of India being fully represented at all future Imperial Conferences, and that the necessary steps should be taken to secure the assent of the various Governments in order that the next Imperial Conference may be summoned and constituted accordingly.

IX

CONSTITUTION OF THE EMPIRE

(Ninth Day ; Monday, April 16th.)

The Imperial War Conference are of opinion that the readjustment of the constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the War, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities.

They deem it their duty, however, to place on record their view that any such readjustment, while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of

the Dominions as autonomous nations of an Imperial Commonwealth, and of India as an important portion of the same, should recognize the right of the Dominions and India to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine.

XXII

RECIPROCITY OF TREATMENT BETWEEN INDIA AND
THE SELF-GOVERNING DOMINIONS

(Fifteenth day; Friday, April 27th.)

That the Imperial War Conference, having examined the Memorandum on the position of Indians in the Self-governing Dominions presented by the Indian representatives to the Conference, accepts the principle of reciprocity of treatment between India and the Dominions and recommends the Memorandum to the favourable consideration of the Governments concerned.

5. *Edwin S. Montagu, House of Commons,
20 August, 1917*

The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of increasing the association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire. They have decided

that substantial steps in this direction should be taken as soon as possible, and that it is of the highest importance as a preliminary to considering what these steps should be that there should be a free and informal exchange of opinion between those in authority at home and in India. His Majesty's Government have accordingly decided, with His Majesty's approval, that I should accept the Viceroy's invitation to proceed to India to discuss these matters with the Viceroy and the Government of India, to consider with the Viceroy the views of local governments, and to receive with him the suggestions of representative bodies and others.

I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.

Ample opportunity will be afforded for public discussion of the proposals which will be submitted in due course to Parliament.

6. *Imperial War Conference, 24 July, 1918*

CHAIRMAN: Mr. Hughes cannot come this morning, and Sir Robert Borden is away. The first subject on the agenda is reciprocity of treatment between India and the Dominions, on which

capacity, with no direct responsibility at all. Your only way of modifying the police policy is so to show the House of Commons the excellence of the way in which you have used your educational policy, so that in ten years' time they will transfer to you the police policy too, but at present my responsibility ceases with the transferred subject.' By this means, it seems to me, you can make clear, both to the electorate and to the individual who exercises power on behalf of the electorate, the extent of his responsibility, and in no other way. The logical sequence to that form of argument would be that you would have two Governments completely separate in the same area, with separate funds, separate finances, separate legislatures, separate executive staffs. I would suggest most respectfully to the House that that is impossible, and for this reason. I cannot reiterate too often that the basis of this whole policy is its transitional nature. You want to lead on to something else at the earliest possible moment. If you have two Houses, with two staffs, two purses, the net result would be that the people concerning themselves with transferred subjects would never have anything to say on reserved subjects. But if reserved subjects are to become transferred subjects one day, it is absolutely essential that, during the transitional period, although there is no direct responsibility for them, there should be opportunities of influence and consultation. Therefore, although it seems necessary to separate the responsibility, there ought to be every room that you can possibly have for consultation and joint deliberation on the same policy, and for acting together for the

purposes of consultation and deliberation, as the Bill provides, in one Government.

Colonel WEDGWOOD : And criticism ?

Mr. MONTAGU : And criticism. This procedure would be absolutely indefensible if it were not for the fact that it was transitional, and if it were not for the fact that at stated periods it is proposed to hold a Parliamentary inquiry into its working, with a view to further stages. By that means there is a certain method of progress. By that means everything that happens will come under review, and the attitude adopted by each part of the Government to the affairs of the other part will be one of the prime factors in the decision of the Commission that reviews.

I have dealt now with the local governments, and the way in which the scheme is evolved. I know it is a very hard thing, I know that it is more than difficult to explain so complicated a procedure, particularly for one who has been saturated for two years past with this sort of argument and discussion. But I have endeavoured as shortly as I possibly could to portray the arguments once again. They are portrayed in the memorandum which I have issued, and the Government of India's dispatch, which have led up to this Bill. I do not think the time has yet come for a similar movement in the Government of India. I think that there we must take the step of one stage only, namely, to make the Legislative Assembly more representative, to give it greater power of influencing and criticizing, but not, at this moment, of responsibility ; and we must make the Government of India itself more elastic in its composition, less stereotyped, by altering certain

of the statutory provisions which govern its executive formation. We must also add to its power of dealing with its own work, because we relieve it of the necessity of controlling a large number of provincial functions. In so far as the provincial Government has got to defer to its legislature by statute, that is to say in transferred subjects, you have a government which is responsible to the electorate. Therefore there is no necessity to control it by the Government of India and you get the devolution which the men who want to perfect administration desire. Therefore the Government of India will not be concerned, generally speaking, with transferred subjects, and the Secretary of State will not be concerned with transferred subjects. Therefore, this House will not be concerned with transferred subjects. Therefore, so far as transferred subjects are concerned, we shall have parted with our trusteeship and surrendered it to the representatives of the people of India. There is much more to be done with the Government of India. We have to release it from unnecessary administrative control by the India Office, and for that purpose, incidentally to this Bill, I am awaiting the details of Lord Crewe's Committee's Report, but so far as that is concerned, most of its recommendations, except as regards the composition of the Council, will be administrative and not statutory. At the same time, as was mentioned in the Joint Report, there is very much reason to believe that the secretariat system wants reconsideration and overhauling. I think it is understaffed, and I do not think it is modelled for the transaction of the complicated business which falls to the office at the present

moment. The House will be glad to learn that Sir Herbert Llewellyn Smith, one of the most experienced British Civil Servants, has been good enough to accept my invitation, given to him on behalf of the Government of India, to visit India, to consider the secretariat arrangements in the Government of India, and Sir George Lloyd has also invited him to consider those of Bombay.

Colonel WEDGWOOD: Does that include the staffs of ministers who deal with transferred subjects, or will they arrange their own staffs?

Mr. MONTAGU: Ultimately, of course, the ministers will arrange their own staffs, but I want them at the moment to take over their departments as going concerns. This question of the secretariat, however, is for the Government of India primarily, and nothing else.

Before I sit down, there are some very important matters with which I must deal. The first is that of the alternative schemes which have been presented and which have been rejected in this Bill. There is the Congress and Moslem-League scheme. I will not detain the House with the details of that. It was prepared before the pronouncement of the 20th August 1917. It does not attempt to realize responsible government, but it leaves an irremovable executive at the mercy of a legislature which can paralyse it but not direct it. I do not believe that this House will ever agree to set up a constitution in India which will leave an executive, that is not removable, at the mercy of a legislature which cannot control it. Much more formidable is another alternative proposal, which comes from the heads of the majority of the local governments. Although I cordially agree

with the Government of India in rejecting this proposal, I hope the House will believe that I do not underestimate its importance. It is the work of no arm-chair critics. It is the work of the most experienced administrators in India. It is the work of men who are entitled above all others to have their opinions carefully weighed, and, although I believe them to be wrong and desire to show why I believe them to be wrong, and that we shall have to argue this in Committee, yet it is with no sense of disrespect to them that I challenge their conclusions. It is a powerful array. The Government of Madras had no part or share in the elaboration of this alternative proposal, nor had the Government of Bombay, but the heads of five local governments approved the alternative proposal. Yet the Governor of Bengal, Lord Ronaldshay, and the Lieutenant-Governor of Bihar and Orissa, Sir Edward Gait, preferred the scheme of the Bill and the Joint Report. That is the position. But although I do not want to discredit them, I want to suggest that really their views are accidental in this sense, that it must not be assumed that whatever the composition of those governments, and whoever had been their heads, the same results would have ensued. For instance, the Chief Commissioner for Assam prefers the scheme of the majority of local governments. But the late Chief Commissioner of Assam, who left only a few months previously—he came home about a year ago—would have preferred, I know, the scheme of the Joint Report and this Bill. The present Lieutenant-Governor of the United Provinces prefers the alternative scheme of the local governments, but his predecessor would have preferred

the scheme of the Joint Report. A great deal depends upon personality.

But although these gentlemen are entitled to give a very weighty opinion, they are not unprejudiced. Where men have grown up under a system, they do not like to see it altered. Their proposal is the existing system with another man added to the Executive Council. Nothing much worse than the Morley-Minto scheme—an alleged unity of government, but no real unity of government, because one-half of the Government is in their own words ‘necessarily influenced by the opinions of the Legislative Council’, and the other half not. And there is no certainty of control by the legislature because on all subjects, if the Governor certifies it is in the interests of his Province, he can override it. It is the same system with just another Indian member added to the Executive Council. Let me put it to this House. After all, the Civil Servant in India is not very different from the Civil Servant in this country. Whoever heard of a political reform in any office in this country coming out of the Civil Service. This House is the place for political reform. You will never get it carried out by the Civil Service. As time goes on, that service must carry out the wishes of those who dictate the policy. It must be first in this House, and ultimately in India, that that policy which the Civil Service is to carry out must be dictated to it.

Colonel YATE: Why did you send Sir Llewellyn Smith to make reforms in India? Is he not a Civil Servant?

Mr. MONTAGU: I am very much obliged to my hon. and gallant friend. His intervention in

debate is always valuable. He has given me the opportunity of pointing my argument. I am using a Civil Servant to advise me on administrative changes as to how the secretariat can carry out most efficiently the orders and wishes of its political superiors. That is exactly the function of a Civil Servant. And this is what ultimately, when India is a self-governing country, I hope to see the position of the Civil Service. It is quite true that in what I have said about the local governments' alternative plan I have included Lord Willingdon, because, although he is not a Civil Servant, and although he has a plan of his own, he would, I am certain, have preferred the plan of the majority of local governments to the plan of the Bill. But then Lord Willingdon prefers to rely upon those qualities which he possesses, which made him an astonishing success in the Government of Bombay. He brings all the qualities that ensure for him great popularity and all the qualities which made him in this House a successful Whip. He says, in effect, under a Governor such as Lord Willingdon a more elastic arrangement would be far preferable to the arrangement of dyarchy of the Bill.

Under the scheme as we propose it to this House, if in any province a governor can so influence his advisers—and there are governors and governors, and lieutenant-governors and lieutenant-governors—if the circumstances of a particular province make it possible, there is nothing in the Bill which would prevent a governor trying to discharge all the reserved functions as if they were transferred. He can call his government together and say, 'I do not believe much in this dual form of government. Let us see if we cannot

get on together. Unless I am driven to it I will use none of the powers given to me under this Bill. We will always consult together. I will do my best to work the scheme in deference to the wishes of the legislature on all subjects, and I will only use my exceptional powers on reserved subjects if I am compelled to.' Perhaps if he is lucky he will go through his term of office without being called upon to use them. Therefore, under my scheme, Lord Willingdon would get all he proposes in his letter. But suppose there is another governor, who says, 'I am not going to consult you. I like the good old way. I believe that good government, or what I think is good government, is far better than self-government, than the scheme under the Bill. I know what is good for you better than you know yourselves.' Under the scheme of the Bill, whatever the personality of the Governor, the transferred subjects are guaranteed to be representatives of the people. Under the alternative scheme, under the wide use of certification and of the local government majority, nothing is guaranteed to them at all. The time, I submit, is not one in which you can be content that certain members of your alleged united government should be 'necessarily influenced by the opinions of the Legislative Council'. What you want, if you are to launch India upon this road, is that the Government on certain subjects must respond to the wishes of the people. In other words, unless you have that, and more than the local governments suggest, then there is no progressive realization of responsible government.

Lastly, I come to the scheme of the Indo-British Association. This is a body which gets very angry

when I suggest that it does not intend to carry out the pronouncement of the 20th August in any adequate way, and it has done great harm in India by leading people to suppose that it has more influence on the decisions of Parliament than I hope it is ever likely to have. What are its proposals? 'Financial delegation as between the Secretary of State and the Government of India.' As a matter of administration, they are in agreement with the Bill and with the Joint Report. But that does not lead to any progressive realization of responsible government. 'The reorganization of the India Office intended not only to remedy obsolete procedure, but to obtain more recent knowledge of India.' They are in agreement with the Joint Report on a matter of administration. They are suggesting the work on which Lord Crewe's Committee is now engaged. But that does not lead to the progressive realization of responsible government. 'Decentralization in India as between the Government of India and the Provinces in domestic matters and the transformation into a federal system.' Once again they are in agreement with the Bill and with the Joint Report. But that in itself does not lead them any nearer to the progressive realization of responsible government. Then there are two points about municipal and local government and elementary education. These are not constitutional points at all. And then there comes their one controversial and constructive programme. 'In every Province place one or two districts in charge of a wholly Indian official staff and extend that, if it proves satisfactory, into a Division and finally into a whole Province.' That scheme is a scheme

of bureaucrats for the consumption of bureaucrats, intended for the enthronement of bureaucracy. 'Let me, if I am in charge of a Province, be not controlled in any sense by my legislative councils.' I have got somewhere—I will refer to it if I am challenged—their qualifying statement 'that the powers of the provincial government are to remain unimpaired'. They are not to be interfered with by the Legislative Council or by the Government of India or by the India Office. In other words, the Lord Sydenhams of the future can remain upon their throne, untrammelled by control from above and undismayed by criticism from below. How is that to lead to the progressive realization of responsible government?

Brigadier-General CROFT: Was he a successful Governor?

Mr. MONTAGU: I do not want to express an opinion on that. His record is available. I am not concerned with the authorship. It does not matter who is the author. I am only concerned to test the programme and see whether it fulfils the policy of the progressive realization of responsible government. And when I find that the association puts forward a policy which pretends to carry out the pronouncement but which more or less involves bureaucracy, I am entitled to criticize with all the strength in my power. What is the use of ousting a British Civil Servant and replacing him by an Indian Civil Servant? The district officer is the very backbone of the administrative machine. I venture to predict that the Indians themselves would be last to wish to see the complete disappearance of the district officer, but we do no good by establishing an Indian bureaucracy instead of

an English bureaucrat. Of the two bureaucrats, having regard to his training, I infinitely prefer at the present moment the English bureaucrat. If that is the best alternative scheme addressed to this House, and if we really desire to carry out the pledges made to India, then it is far better to carry the Bill as it stands than to pay any attention to this scheme. We shall never get on with all the work that we have got to do in India unless we have settled, as this Bill will settle, the constitutional question and its interminable discussion. I say it 'will settle'. What I mean is that I hope we shall receive from the Joint Committee an agreed Bill, that all these alternative schemes will be considered in far more detail than is possible this afternoon, and that somehow or other a Statute will pass, as a consequence of the Second Reading this afternoon, which will launch India on the road to complete self-government. There is so much other work to do in India that if we can once get a growing constitution for it to win for itself that goal which we have pronounced, we can turn our attention to the spread of education—to the perfection or at least to the improvement of education—we can turn our attention to the development of her great resources and her great industries, we can consider the reorganization of her defences. But before we can do anything and in order to make these things possible it seems to me to be essential to start her on this road of self-government.

I implore this House to show to India to-day that Parliament is receptive of the case for self-government and only seeks an opportunity of completing it by the demonstrable realization of

the success of its stages. There is too much race prejudice in India at the present time. It is beyond this House to correct it. It does not exist only in India ; it exists in South Africa too. But Parliament can help to correct it in the Constitution. If we hold on to power in India and stand fast to the policy of subordination, race friction will continue and ought to continue. If we surrender our trusteeship to the great provinces of India as speedily as they are ready to take it over, then Indians will have something better and more worth doing than fiercely and impotently to criticize those who are at present the agents of Parliament.

Perorations on Indian affairs have a tendency to great similarity ; at least the perorations of my speeches on Indian affairs always seem so. I cannot, however—and I say it once again—believe that Parliament is going to afford any obstacle to the partnership of India in the British Empire. We have recently been so sympathetic to the national aspirations of Arabs, of Czecho-Slovaks, of Serbs, of Croats, and of Slovenes. Here is a country desirous of achieving nationality once again, I repeat, an original member of the League of Nations, developed under our protecting care, imbued to a greater and greater degree with our political thought. Let us pass this Bill and start it, under the aegis of the British flag, on the road which we ourselves have travelled, despite all the acknowledged difficulties of area, of caste, of religion, of race and of education. If you do that, if you pass this Bill and modify it until it becomes a great Statute, I can say—we can say—as I should like to say with the authority of the House to the peoples of India, ‘ The future and the date

upon which you realize the future goal of self-government are with you. You are being given great responsibility to-day, and the opportunities of consultation and influence on other matters in which for the present we keep responsibility. You will find in Parliament every desire to help and to complete the task which this Bill attempts, if you devote yourselves to use with wisdom, with self-restraint, with respect for minorities, the great opportunities with which Parliament is entrusting you.' That is the message which it seems to me—I say it with all deference—this House should send to the Indian peoples to-day, when you are starting to fulfil the pronouncement of the 20th of August. That message cannot be sent unless the House is determined to pass without delay, and with every desire that it should be improved before it is passed, a Statute which means the beginning of self-government, responsible government, in the Indian Empire.

10. *Report of the Joint Select Committee on the Government of India Bill, 17 November, 1919*

5. HAVING weighed the evidence and information before them, the Committee have made a number of changes in the Bill. Those of a more detailed or miscellaneous character are briefly discussed below under the clauses to which they relate. Those which are directed to the avoidance of the difficulties and dangers which have been pointed out, proceed on a simple and, in the Committee's opinion, an indefeasible theory. That theory the Committee think it desirable to state at once. Ministers who enjoy the confidence of a

majority in their Legislative Council will be given the fullest opportunity of managing that field of government which is entrusted to their care. In their work they will be assisted and guided by the Governor, who will accept their advice and promote their policy whenever possible. If he finds himself compelled to act against their advice, it will only be in circumstances roughly analogous to those in which he has to override his Executive Council—circumstances which will be indicated in the Instrument of Instructions furnished to him on his appointment by His Majesty. On the other hand, in and for that field of government in which Parliament continues to hold him responsible, the Provincial Governor in Council will remain equipped with the sure and certain power of fulfilling that responsibility. The Committee will indicate in the course of this Report how they visualize the relations between the two parts of the provincial government, but they wish to place in the forefront of the Report their opinion that they see no reason why the relations should not be harmonious and mutually advantageous. They regard it as of the highest importance that the Governor should foster the habit of free consultation between both halves of his Government, and indeed that he should insist upon it in all important matters of common interest. He will thus ensure that ministers will contribute their knowledge of the people's wishes and susceptibilities, and the members of his Executive Council their administrative experience, to the joint wisdom of the Government. But while the Committee anticipate much advantage from amicable and, as far as possible, spontaneous association for purposes of deliberation, they would

not allow it to confuse the duties or obscure the separate responsibility which will rest on the two parts of the administration. Each side of the government will advise and assist the other; neither will control or impede the other. The responsibility for administrative and legislative action in their own field will be fixed beyond possibility of doubt on ministers and on the majorities of the provincial legislatures which support them; and they will be given adequate power to fulfil their charge. Similarly within that field for which he remains accountable to Parliament, the responsibility for action must be fixed on the Governor in Council, and he must possess unfailing means for the discharge of his duties. Finally, behind the provincial authorities stands the Government of India.

6. The change which this Bill will make in the political structure and life of India is very important. It marks a great step in the path of self-government, and it is a proof of the confidence reposed by His Majesty's Government in the loyalty, wisdom, and capacity of our Indian fellow subjects. At the same time it points to the desirability of keeping Parliament in closer touch with Indian affairs than has recently been possible. The Committee accordingly propose that a Standing Joint Committee should be appointed by both Houses of Parliament for that purpose. It should have no statutory functions, but a purely advisory and consultative status; and among its tasks is one of high importance, the consideration of amendments to rules made under this Bill. For the plan on which the Bill has been drafted, and in the opinion of the Committee rightly drafted,

will necessitate the completion of some of its main provisions by a large number of rules and other documents which will have to be framed before the machinery established by the Bill can come into working order. Many of these rules and documents will be drafted in India for the approval of the Secretary of State. When they come to England it may be found convenient that the present Committee be reappointed to advise Parliament in regard to them.

7. The Committee will now proceed to indicate the nature of the changes they have made in the Bill, and also their suggestions for action to be taken under it, either in the framing of rules or by executive process hereafter.

PREAMBLE

... The Committee have enlarged the preamble so as to include all parts of the announcement of the 20th August 1917. Their reason for doing so is that an attempt has been made to distinguish between the parts of this announcement, and to attach a different value to each part according to opinion. It has been said, for instance, that whereas the first part is a binding pledge, the later part is a mere expression of opinion of no importance. But the Committee think that it is of the utmost importance, from the very inauguration of these constitutional changes, that Parliament should make it quite plain that the responsibility for the successive stages of the development of self-government in India rests on itself and on itself alone, and that it cannot share this responsibility with, much less delegate it to, the newly elected legislatures of India.

They also desire to emphasize the wisdom and justice of an increasing association of Indians with every branch of the administration, but they wish to make it perfectly clear that His Majesty's Government must remain free to appoint Europeans to those posts for which they are specially required and qualified.

PART I

Clause 1.—The Committee wish to take this opportunity of acknowledging the debt they owe to the work of the two Committees on Franchise and Functions presided over by Lord Southborough. If they are not able to accept all the conclusions of these Committees, and if they recommend some additional provisions to those included in those reports, it does not mean that they are not very sensible of the value of the work done, without which, indeed, this constitutional change could not have been effected.

The lists of central, provincial, and transferred subjects included in the Functions Committee's Report have been somewhat altered after consultation with the India Office (*see Appendix F to the Minutes of Evidence*); and as so amended they are accepted by this Committee, subject to certain general observations at the end of this Report. It must not, however, be concluded that these partitions of the functions of government are absolutely clear-cut and mutually exclusive. They must in all cases be read with the reservations in the text of the Functions Committee's Report, and with due regard to the necessity for special procedure in cases where their orbits overlap.

The Committee have given much attention to

the difficult question of the principle on which the provincial revenues and balances should be distributed between the two sides of the provincial governments. They are confident that the problem can readily be solved by the simple process of common sense and reasonable give-and-take, but they are aware that this question might, in certain circumstances, become the cause of much friction in the provincial government, and they are of opinion that the rules governing the allocation of these revenues and balances should be framed so as to make the existence of such friction impossible. They advise that if the Governor, in the course of preparing either his first or any subsequent budget, finds that there is likely to be a serious or protracted difference of opinion between the Executive Council and his ministers on this subject, he should be empowered at once to make an allocation of revenue and balances between the reserved and transferred subjects, which should continue for at least the whole life of the existing Legislative Council. The Committee do not endorse the suggestion that certain sources of revenue should be allocated to reserved, and certain sources to transferred subjects, but they recommend that the Governor should allocate a definite proportion of the revenue, say, by way of illustration, two-thirds to reserved and one-third to transferred subjects, and similarly a proportion, though not necessarily the same fraction, of the balances. If the Governor desires assistance in making the allocation, he should be allowed at his discretion to refer the question to be decided to such authority as the Governor-General shall appoint. Further, the Committee are of opinion that it should be laid

down from the first that, until an agreement which both sides of the Government will equally support has been reached, or until an allocation has been made by the Governor, the total provisions of the different expenditure heads in the budget of the Province for the preceding financial year shall hold good.

The Committee desire that the relation of the two sides of the Government in this matter, as in all others, should be of such mutual sympathy that each will be able to assist and influence for the common good the work of the other, but not to exercise control over it. The budget should not be capable of being used as a means for enabling ministers or a majority of the Legislative Council to direct the policy of reserved subjects ; but on the other hand the Executive Council should be helpful to ministers in their desire to develop the departments entrusted to their care. On the Governor personally will devolve the task of holding the balance between the legitimate needs of both sets of his advisers.

Clause 2.—This clause has been inserted to regularize the raising of loans by local governments on the special security of their own provincial revenues.

Clause 3.—The question has been raised as to the communications between the Governors of Provinces and the Secretary of State.¹ The question as to whether such communications shall in future take place, and as to the procedure to be adopted in them, may well be left to the Secretary of State. In the opinion of the Committee there is no cause at present for disturbing the existing

¹ See Parl. Papers Cmd. 123, p. 12 ; Cmd. 207, p. 45.

position, except to the extent to which the Secretary of State relaxes his powers of direction and control over local governments. To that extent the Government of India will also withdraw from intervention ; but India is not yet ripe for a true federal system, and the central government cannot be relegated to functions of mere inspection and advice. The Committee trust that there will be an extensive delegation, statutory and otherwise, to provincial governments of some powers and duties now in the hands of the Government of India ; and they trust also that the control of that Government over provincial matters will be exercised with a view to preparing the provinces for the gradual transfer of power to the provincial government and legislature.

Clause 4.—The Committee are of opinion that the ministers selected by the Governor to advise him on the transferred subjects should be elected members of the Legislative Council, enjoying its confidence and capable of leading it. A minister will have the option of resigning if his advice is not accepted by the Governor ; and the Governor will have the ordinary constitutional right of dismissing a minister whose policy he believes to be either seriously at fault or out of accord with the views of the Legislative Council. In the last resort the Governor can always dissolve his Legislative Council and choose new ministers after a fresh election ; but if this course is adopted the Committee hope that the Governor will find himself able to accept such views as his new ministers may press upon him regarding the issue which forced the dissolution. The Committee are of opinion that in no province will there be need for less than

two ministers, while in some provinces more will be required. In these circumstances they think that it should be recognized from the commencement that ministers may be expected to act in concert together. They probably would do so; and in the opinion of the Committee it is better that they should, and therefore that the fact should be recognized on the face of the Bill. They advise that the status of ministers should be similar to that of the members of the Executive Council, but that their salaries should be fixed by the Legislative Council. Later on in this Report it will be suggested that Indian members of the Council of India in London should be paid a higher scale of remuneration than those members of the Council domiciled in the United Kingdom. The same principle might suggest to the Legislative Council that it was reasonable for the ministers of the provincial government domiciled in India to be paid on a lower scale of remuneration than the European members.

Provision has been made in this clause for the appointment, at the Governor's discretion, of non-official members of the Legislative Council to fill a rôle somewhat similar to that of the Parliamentary Under-Secretary in this country.

Clause 5.—The Committee are of opinion that the normal strength of an Executive Council, especially in the smaller provinces, need not exceed two members. They have not, however, reduced the existing statutory maximum of four; but if in any case the Council includes two members with service qualifications, neither of whom is by birth an Indian, they think that it should also include two unofficial Indian members.

Clause 6.—The Committee desire at this point to give a picture of the manner in which they think that, under this Bill, the government of a Province should be worked. There will be many matters of administrative business, as in all countries, which can be disposed of departmentally ; but there will remain a large category of business, of the character which would naturally be the subject of Cabinet consultation. In regard to this category the Committee conceive that the habit should be carefully fostered of joint deliberation between the members of the Executive Council and the ministers, sitting under the chairmanship of the Governor. There cannot be too much mutual advice and consultation on such subjects, but the Committee attach the highest importance to the principle that, when once opinions have been freely exchanged and the last word has been said, there ought then to be no doubt whatever as to where the responsibility for the decision lies. Therefore, in the opinion of the Committee, after such consultation, and when it is clear that the decision lies within the jurisdiction of one or other half of the Government, that decision in respect of a reserved subject should be recorded separately by the Executive Council, and in respect of a transferred subject by the ministers, and all acts and proceedings of the Government should state in definite terms on whom the responsibility for the decision rests. It will not always, however, be clear, otherwise than in a purely departmental and technical fashion, with whom the jurisdiction lies in the case of questions of common interest. In such cases it will be inevitable for the Governor to occupy the position of informal arbitrator

between the two parts of his administration ; and it will equally be his duty to see that a decision arrived at on one side of his government is followed by such consequential action on the other side as may be necessary to make the policy effective and homogeneous.

The position of the Governor will thus be one of great responsibility and difficulty, and also of great opportunity and honour. He may have to hold the balance between divergent policies and different ideals, and to prevent discord and friction. It will also be for him to help with sympathy and courage the popular side of his government in their new responsibilities. He should never hesitate to point out to ministers what he thinks is the right course or to warn them if he thinks they are taking the wrong course. But if, after hearing all the arguments, ministers should decide not to adopt his advice, then, in the opinion of the Committee, the Governor should ordinarily allow ministers to have their way, fixing the responsibility upon them, even if it may subsequently be necessary for him to veto any particular piece of legislation. It is not possible but that in India, as in all other countries, mistakes will be made by ministers, acting with the approval of a majority of the Legislative Council, but there is no way of learning except through experience and by the realization of responsibility.

In the debates of the Legislative Council members of the Executive Council should act together and ministers should act together, but members of the Executive Council and ministers should not oppose each other by speech or vote ; members of the Executive Council should not be required to support

either by speech or vote proposals of ministers of which they do not approve, nor should ministers be required to support by speech or vote proposals of the Executive Council of which they do not approve; they should be free to speak and vote for each other's proposals when they are in agreement with them. All other official members of the Legislative Council should be free to speak and vote as they choose.

Clause 7.—The Committee have altered the first schedule to the Bill, so as to show only the total strength of the Legislative Council in each Province. They have retained the provision, now in sub-clause (2), that at least 70 per cent. of the members shall be elected, and not more than 20 per cent. shall be officials. This general stipulation will govern the distribution of the seats in each Province; but in certain respects the detailed arrangements will require further consideration, and proposals should be called for from the Government of India in regard to them. . . .

Clause 9.—The Committee have considered carefully the question who is to preside over the Legislative Councils in the provinces. They are of opinion that the Governor should not preside, and they advise that, for a period of four years, the President should be appointed by the Governor. Wherever possible it would be a great advantage if some one could be found for this purpose who had had parliamentary experience. The Legislative Council should itself elect a Vice-President, and at the end of four years the nominated President would disappear, and the President and Vice-President would be elected by the councils. The Committee attribute the greatest importance to

this question of the Presidency of the Legislative Council. It will, in their opinion, conduce very greatly to the successful working of the new councils if they are imbued from the commencement with the spirit and conventions of parliamentary procedure as developed in the Imperial Parliament. The Committee will recur to this subject in dealing with the question of the President of the Legislative Assembly of India.

Clause 11.—The Committee think that the provincial budget should be submitted to the vote of the Legislative Council, subject to the exemption from this process of certain charges of a special or recurring character which have been set out in the Bill. In cases where the Council alter the provision for a transferred subject, the Committee consider that the Governor would be justified, if so advised by his ministers, in resubmitting the provision to the Council for a review of their former decision ; but they do not apprehend that any statutory prescription to that effect is required. Where the Council have reduced a provision for a reserved subject which the Governor considers essential to the proper administration of the subject concerned, he will have a power of restoration. The Committee wish it to be perfectly clear that this power is real and that its exercise should not be regarded as unusual or arbitrary ; unless the Governor has the right to secure supply for those services for which he remains responsible to Parliament, that responsibility cannot justly be fastened upon him.

Whenever the necessity for new taxation arises, as arise it must, the questions involved should be threshed out by both parts of the Government in

consultation together, and it is especially important that in this matter both parts of the Government should, if possible, be in agreement when the proposals of the Government are laid before the legislature.

Clause 13.—The Committee have rejected the plan of Grand Committees as drafted originally in the Bill. They have done so because in their opinion the Grand Committee did not give the Governor the power of securing legislation in a crisis in respect of those matters for which he is held responsible, and because in respect of ordinary legislation about reserved subjects it perpetuated the system of securing legislation by what is known as the ‘official bloc’, which has been the cause of great friction and heartburning. The responsibility for legislation on reserved subjects is with the Governor in Council, and, when the ‘official bloc’ has been put into operation, it has been put into operation by him, and is merely an indirect way of asserting his responsibility. The Committee think it much better that there should be no attempt to conceal the fact that the responsibility is with the Governor in Council, and they recommend a process by which the Governor should be empowered to pass an Act in respect of any reserved subject, if he considers that the Act is necessary for the proper fulfilment of his responsibility to Parliament. He should not do so until he has given every opportunity for the matter to be thoroughly discussed in the Legislative Council, and as a sensible man he should, of course, endeavour to carry the Legislative Council with him in the matter by the strength of his case. But if he finds that cannot be so, then he should have

the power to proceed on his own responsibility. Acts passed on his sole responsibility should be reserved by the Governor-General for His Majesty's pleasure, and be laid before Parliament. His Majesty will necessarily be advised by the Secretary of State for India, and the responsibility for the advice to be given to His Majesty can only rest with the Secretary of State. But the Committee suggest that the Standing Committee of Parliament, whose appointment they have advised, should be specially consulted about Acts of this character. Provision, however, is made in the Bill for the avoidance of delay in case of a grave emergency by giving the Governor-General power to assent to the Act without reserving it, though this, of course, would not prevent subsequent disallowance by His Majesty in Council.

Clause 15.—The Committee have two observations to make on the working of this Clause. On the one hand, they do not think that any change in the boundaries of a Province should be made without due consideration of the views of the Legislative Council of the Province. On the other hand, they are of opinion that any clear request made by a majority of the members of a Legislative Council representing a distinctive racial or linguistic territorial unit for its constitution under this Clause, as a sub-province or a separate province, should be taken as a *prima facie* case on the strength of which a commission of inquiry might be appointed by the Secretary of State, and that it should not be a bar to the appointment of such a commission of inquiry that the majority of the Legislative Council of the Province in question is opposed to the request of the minority representing such a distinctive territorial unit.

PART II

Clause 18.—As will be explained below, the Committee do not accept the device, in the Bill as drafted, of carrying government measures through the Council of State without reference to the Legislative Assembly, in cases where the latter body cannot be got to assent to a law which the Governor-General considers essential. Under the scheme which the Committee propose to substitute for this procedure, there is no necessity to retain the Council of State as an organ for government legislation. It should therefore be reconstituted from the commencement as a true Second Chamber. They recommend that it should consist of sixty members, of whom not more than twenty should be official members. The Franchise Committee advise that the non-official members should be elected by the same group of persons as elect the members of the Legislative Assembly and in the same constituencies. This is a plan which the Committee could, in no circumstances, accept. They hope and believe that a different system of election for the Council of State can be devised by the time the constitution embodied in this Bill comes into operation, and they recommend that the Government of India be enjoined forthwith to make suggestions accordingly, to which effect can be given without delaying the inauguration of the new constitution. If the advice of the Committee that it be reappointed for the purpose of considering the rules to be framed under this Bill be approved, it should have an opportunity of considering the proposals made for the election of the Council of State.

Clause 19.—For the Legislative Assembly the Committee are equally unwilling to accept, as a permanent arrangement, the method of indirect election proposed in the report of the Franchise Committee. If by no other course it were possible to avoid delay in bringing the constitution enacted by the Bill into operation, the Committee would acquiesce in that method for a preliminary period of three years. But they are not convinced that delay would be involved in preparing a better scheme of election, and they endorse the views expressed by the Government of India in paragraph 39 of its dispatch dealing with the subject. They accordingly advise that the Government of India be instructed at once to make recommendations to this effect at the earliest possible moment. These recommendations as embodied in draft rules would also be subject to examination by this Committee if reappointed.

Clause 20.—The Committee think that the President of the Legislative Assembly should for four years be a person appointed by the Governor-General. He should be qualified by experience in the House of Commons and a knowledge of parliamentary procedure, precedents, and conventions. He should be the guide and adviser of the Presidents of the Provincial Councils, and he should be chosen with a view to the influence which it is hoped he would have on the whole history of parliamentary procedure in India. He should be paid an adequate salary.

Clause 25.—This is a new provision for the submission of the Indian Budget to the vote of the Legislative Assembly, on the understanding that this body is constituted as a chamber reasonably

representative in character and elected directly by suitable constituencies. The Committee consider it necessary (as suggested to them by the consolidated fund charges in the Imperial Parliament) to exempt certain charges of a special or recurring nature, which have been set out in the Bill, e.g. the cost of defence, the debt charges, and certain fixed salaries, from the process of being voted. But otherwise they would leave the Assembly free to criticize and vote the estimates of expenditure of the Government of India.¹ It is not, however, within the scheme of the Bill to introduce at the present stage any measure of responsible government into the central administration, and a power must be reserved to the Governor-General in Council of treating as sanctioned any expenditure which the Assembly may have refused to vote if he considers the expenditure to be necessary for the fulfilment of his responsibilities for the good government of the country. It should be understood from the beginning that this power of the Governor-General in Council is real, and that it is meant to be used if and when necessary.

Clause 26.—For reasons which prompted their rejection of the process of certification by a Governor to a grand committee in a Province, the Committee are opposed to the proposals in the Bill which would have enabled the Governor-General to refer to the Council of State, and to obtain by virtue of his official majority in that body any legislation which the lower chamber refuse to accept, but which he regards as essential to the discharge of his duties. The Committee have no hesitation in accepting the view that the

¹ Cf. Cmd. 207, pp. 41-3.

Governor-General in Council should in all circumstances be fully empowered to secure legislation which is required for the discharge of his responsibilities ; but they think it is unworthy that such responsibility should be concealed through the action of a Council of State specially devised in its composition to secure the necessary powers. They believe that in such a case it would add strength to the Government of India to act before the world on its own responsibility. In order, however, that Parliament may be fully apprised of the position and of the considerations which led to this exceptional procedure, they advise that all Acts passed in this manner should be laid before Parliament, who would naturally consider the opinion of the Standing Committee already referred to.

Clause 28.—The recommendation of the Committee is that the present limitation on the number of the members of the Governor-General's Executive Council should be removed, that three members of that Council should continue to be public servants or ex-public servants who have had not less than ten years' experience in the service of the Crown in India ; that one member of the Council should have definite legal qualifications, but that those qualifications may be gained in India as well as in the United Kingdom ; and that not less than three members of the Council should be Indians. In this connexion it must be borne in mind that the members of the Council drawn from the ranks of the public servants will, as time goes on, be more and more likely to be of Indian rather than of European extraction.

Clause 29.—The Committee have inserted this

provision to allow of the selection of members of the legislature who will be able to undertake duties similar to those of the Parliamentary Under-Secretaries in this country. It should be entirely at the discretion of the Governor-General to say to which departments these officers should be attached, and to define the scope of their duties.

PART III

Clause 30.—The Committee think that all charges of the India Office, not being ‘agency’ charges, should be paid out of moneys to be provided by Parliament.

Clause 31.—The Committee are not in favour of the abolition of the Council of India.¹ They think that, at any rate for some time to come, it will be absolutely necessary that the Secretary of State should be advised by persons of Indian experience, and they are convinced that, if no such Council existed, the Secretary of State would have to form an informal one if not a formal one. Therefore they think it much better to continue a body which has all the advantages behind it of tradition and authority, although they would not debar the readjustment of its work so as to make it possible to introduce what is known as the portfolio system. They think, also, that its constitution may advantageously be modified by the introduction of more Indians into it and by shortening of the period of the service upon it, in order to ensure

¹ This was recommended by Lord Crewe’s Committee on the Home Administration of Indian Affairs, Majority Report (Cmd. 207, pp. 9–11), which recommended an Advisory Committee instead; objections were raised by members of that Committee, see pp. 32, 33, 48–52.

a continuous flow of fresh experience from India and to relieve Indian members from the necessity of spending so long a period as seven years in England.

Clause 33.—The Committee have given most careful consideration to the relations of the Secretary of State with the Government of India, and through it with the provincial governments. In the relations of the Secretary of State with the Governor-General in Council the Committee are not of opinion that any statutory change can be made, so long as the Governor-General remains responsible to Parliament; but in practice the conventions which now govern these relations may wisely be modified to meet fresh circumstances caused by the creation of a Legislative Assembly with a large elected majority. In the exercise of his responsibility to Parliament, which he cannot delegate to any one else, the Secretary of State may reasonably consider that only in exceptional circumstances should he be called upon to intervene in matters of purely Indian interest where the Government and the Legislature of India are in agreement.

This examination of the general proposition leads inevitably to the consideration of one special case of non-intervention. Nothing is more likely to endanger the good relations between India and Great Britain than a belief that India's fiscal policy is dictated from Whitehall in the interests of the trade of Great Britain. That such a belief exists at the moment there can be no doubt. That there ought to be no room for it in the future is equally clear. India's position in the Imperial Conference opened the door to negotiation between India and

the rest of the Empire, but negotiation without power to legislate is likely to remain ineffective. A satisfactory solution of the question can only be guaranteed by the grant of liberty to the Government of India to devise those tariff arrangements which seem best fitted to India's needs as an integral portion of the British Empire. It cannot be guaranteed by statute without limiting the ultimate power of Parliament to control the administration of India, and without limiting the power of veto which rests in the Crown; and neither of these limitations finds a place in any of the Statutes in the British Empire. It can only therefore be assured by an acknowledgement of a convention. Whatever be the right fiscal policy for India, for the needs of her consumers as well as for her manufacturers, it is quite clear that she should have the same liberty to consider her interests as Great Britain, Australia, New Zealand, Canada, and South Africa. In the opinion of the Committee, therefore, the Secretary of State should as far as possible avoid interference on this subject when the Government of India and its Legislature are in agreement, and they think that his intervention, when it does take place, should be limited to safeguarding the international obligations of the Empire or any fiscal arrangements within the Empire to which His Majesty's Government is a party.¹

The relations of the Secretary of State and of the Government of India with provincial governments should, in the Committee's judgement, be regulated by similar principles, so far as the reserved subjects are concerned. It follows, therefore, that in purely provincial matters, which are

¹ Cf. Cmd. 207, pp. 41, 42.

reserved, where the provincial government and legislature are in agreement, their view should ordinarily be allowed to prevail, though it is necessary to bear in mind the fact that some reserved subjects do cover matters in which the central government is closely concerned. Over transferred subjects, on the other hand, the control of the Governor-General in Council, and thus of the Secretary of State, should be restricted in future within the narrowest possible limits, which will be defined by rules under sub-clause 3 of Clause 1 of the Bill.

Rules under this clause will be subsidiary legislation of sufficient moment to justify their being brought especially to the notice of Parliament. The Secretary of State might conveniently discuss them with the Standing Committee whose creation has been recommended in this Report ; and Parliament would no doubt consider the opinion of this body when the rules come, as it is proposed that they should do, for acceptance by positive resolution in both Houses. The same procedure is recommended by the Committee for adoption in the case of rules of special or novel importance under other clauses of the Bill. It must be for the Secretary of State to decide which of the many rules that will fall to be drafted by the Government of India can be sufficiently dealt with by the ordinary process of lying on the table of Parliament for a certain number of days. In deciding this point, however, he may naturally have recourse to the advice of the Standing Committee, should it happen to be in session, and obtain their assistance in determining which rules deserve to be made the subject of the more formal procedure by positive resolution.

Clause 35.—This clause carries out the recommendation of Lord Crewe's Committee to appoint a High Commissioner for India, to be paid out of Indian revenues, who will perform for India functions of agency, as distinguished from political functions, analogous to those now performed in the offices of the High Commissioners of the Dominions.

PART IV

Clause 36.—The Committee do not conceal from themselves that the position of the public services in working the new constitutions in the provinces will, in certain circumstances, be difficult. They are of opinion that these services have deserved the admiration and gratitude of the whole Empire. They know that some members of the services regard the wisdom of the proposed changes with grave misgiving, and that some fear that those changes will not tend to the welfare of the Indian masses. They are convinced, however, that the services will accept the changing conditions and the inevitable alteration in their own position, and devote themselves in all loyalty to making a success, so far as in them lies, of the new constitution.

In the provinces, officers serving in a reserved department will be controlled by the Governor in Council, and in a transferred department by the Governor acting with ministers, but in both cases alike the personal concurrence of the Governor should be regarded as essential in the case of all orders of any importance prejudicially affecting the position or prospects of officers appointed by the Secretary of State.

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

PART V

Clause 41.—The Committee are of opinion that the Statutory Commission should not be appointed until the expiration of ten years, and that no changes of substance in the constitution, whether in the franchise or in the lists of reserved and transferred subjects or otherwise, should be made in the interval. The Commission will be fully empowered to examine the workings of the constitutions in all their details in the provinces, and to advise whether the time has come for full responsible government in each province, or in the alternative whether and

to what extent the powers of self-government already granted should be extended, or modified, or restricted. It should be clearly understood, also, that the Commission should be empowered to examine into the working of the Government of India and to advise in respect of the Government of India no less than in respect of the provincial governments. . . .

11. The Committee are impressed by the objections raised by many witnesses to the manner in which certain classes of taxation can be laid upon the people of India by executive action without, in some cases, any statutory limitation of the rates and, in other cases, any adequate prescription by statute of the methods of assessment. They consider that the imposition of new burdens should be gradually brought more within the purview of the Legislature. And in particular, without expressing any judgement on the question whether the land revenue is a rent or tax, they advise that the process of revising the land revenue assessments ought to be brought under closer regulation by statute as soon as possible. At present the statutory basis for charging revenue on the land varies in different provinces; but in some at least the pitch of assessment is entirely at the discretion of the executive government. No branch of the administration is regulated with greater elaboration or care; but the people who are most affected have no voice in the shaping of the system, and the rules are often obscure and imperfectly understood by those who pay the revenue. The Committee are of opinion that the time has come to embody in the law the main principles by which the land revenue is determined,

the methods of valuation, the pitch of assessment, the periods of revision, the graduation of enhancements, and the other chief processes which touch the well-being of the revenue-payers. The subject is one which probably would not be transferred to ministers until the electorate included a satisfactory representation of rural interests, those of the tenantry as well as of the landlords; and the system should be established on a clear statutory basis before this change takes place.

12. The Committee have not hitherto touched on the subject of education in India, and it is far too large for them to make any attempt to deal with it adequately. They have accepted the recommendation of the Functions Committee that, subject to certain reservations about the Universities, the responsibility for the whole field of education in each province should be transferred to ministers. They attach much importance, however, to the educational advancement of the depressed and backward classes, and they trust that the subject will receive special attention from ministers. They are also impressed by the advantage of Boards such as Sir Michael Sadler has advised in Bengal, for the assistance of ministers in controlling the different grades of education, and they trust that ministers will see their way from the outset to constitute such Boards in every province. The Committee would similarly commend to ministers the advisability of creating local government departments in the provinces.

13. The Committee attach the greatest importance to the formation in each provincial government of a strong department of Finance which will serve both sides of the Government alike.

11. *William Adamson, House of Commons,
5 December, 1919*

THE political consciousness of India has been awakening within recent years, and her people have been pressing for reforms. All the evidence goes to confirm the idea that that pressure will continue until her people are able to obtain complete self-government. That is a very legitimate aspiration on the part of the Indian people, and it embodies one of the principles which have been brought into great prominence in the course of the world conflict from which we are just emerging. The aim of the best type of British statesmen who have interested themselves in the government of our great Indian Dependency has been to lead her people up by gradual stages to a position in which they would be able to exercise the full rights and responsibilities of citizenship within the Empire, a position in which they would be able to exercise all the duties and responsibilities of self-government. How this can best be accomplished is the problem which faces the House and the people of this country to-day, and I hope we are going to discharge that great responsibility in such a way as will assist the people of India to build up a strong united nation, well able to exercise all the duties of self-government. In August, 1917, the present Government, in declaring its policy regarding the future government of India, indicated that they were in complete sympathy with the progressive realization of this aim, and this Bill has been brought forward with that object in view. The Labour party are prepared

to admit that the Bill is a definite move in the right direction, our principal criticism being that it does not go far enough, and that we are failing to take the fullest advantage of the help of the people of India themselves to assist us in the successful accomplishment of the great task we have in hand. The Bill gives to the people of India a measure of control in the various Provinces, but no real control in the Central Government. This is a mistake and will rob us of the sympathetic cooperation of some of the best elements of the population of India.

We also regret the very limited franchise which this Bill provides. There may be practical difficulties in the way of the full enfranchisement of the people of India at this juncture, but on the face of it it is absurd that only 5,000,000 out of a total population of 250,000,000 have been enfranchised by this Bill. Especially do we regret that the industrial workers are entirely excluded. There might have been something to have been said for the exceptional treatment of the industrial workers of India if there had been no industrial problems facing her people and demanding solutions at their hands, but the industrial development of our great Indian Dependency has provided a considerable crop of industrial problems. While we are glad to note that the industrial workers of India are beginning to build up a trade-union movement, whereby they will be able to protect their conditions of employment in the coming days, we are disappointed that in this Bill we have failed to provide the Indian working class movement with that political safety valve which has been provided in our own and other industrial countries. We are fully aware of the great value

that political freedom has been to our own nation. It has given the working classes an alternative to direct action, and an opportunity of working out their own destinies along constitutional lines, along the lines of evolution and against revolution, and the working classes of this country have taken full advantage of that opportunity. They have used that alternative to the greatest possible degree. To such an extent is that the case that there is a strong probability that Labour will assume the responsibilities of government in this country in the not distant future. That is an opportunity which you are denying to the industrial worker of India, and you force him back upon the alternative to that, namely, direct action. In our opinion that is a profound mistake, which may prove very costly to the Empire and to the people of India themselves. We regret also the exclusion of the women of India from the opportunity of standing on a political equality with the men. Our experience in this country, especially within the last five years, has taught us the great value of men and women facing the problems of national life together. Notwithstanding the defects, from our point of view, of this Bill, however, as a party we welcome the measure as a step in the right direction. We hope it will prove a success, and so justify a further instalment of political power at no distant date. I hope the people of India themselves will accept the measure in the right spirit as a step towards the realization of their ideals of self-government, and will do their best to make it a success, and so inspire the people of this country with the necessary confidence to trust them with a much larger measure of self-government in the very near future.

12. *Lord Carmichael, House of Lords,
12 December, 1919*

MY LORDS, I moved the adjournment of the Debate last night on behalf of Lord Harris, who, however, is not able to be present, so I will now make the few remarks that I desire to offer. I think I am entitled to say something, as it is not very long since I was a Governor of a Presidency in India. Some of your Lordships who know about recent affairs in India probably look upon me as holding views on the subject of this Bill which may be considered rather advanced—probably more advanced than those of most members of your Lordships' House ; and I admit that this certainly is the case, although I trust that your Lordships will believe me when I say that the views I do hold are views of the correctness of which I am perfectly convinced.

I dare say if I had not gone to India at the time when I did, or if I had gone to another part of India, I should not hold these views. I am not surprised that most members of this House do not look at these things quite as I do, because, if I had never been in India, or if I had gone to India before the passing of the Morley-Minto reforms—and I think even if I had not gone to India before the visit of the King-Emperor—I should not have thought as I do now. I am inclined to believe that if I had stayed on in Madras, where I first went as Governor, and had not gone to Bengal, I might have looked at things rather differently, and I probably should not have taken the view that, even if this Bill had gone a good deal farther than

it does go, it should not be opposed, on general principles at any rate. That is the point of view from which I look at the Bill, and I congratulate my noble friend the Under-Secretary of State for India (Lord Sinha) on the present form in which the Bill is ; and, were he here I should congratulate my noble friend the Earl of Selborne and his colleagues on the form which has been adopted as the result of their labours on the Joint Committee.

I do not pretend that I look upon the Bill as a perfect Bill—I certainly do not. If it were any use I should make criticisms on some matters on which probably most members of this House would agree with me. I do not love the idea of the dyarchy any more, I think probably, than most members of this House, or most of those who have any knowledge of Indian administration. But I realize that no other alternative has been offered. Looking at it simply from the point of view of my own experience as a Governor in India, I believe there are just as many good arguments to be used against a scheme put forward by certain Lieutenant-Governors as there are to be used against the idea of the dyarchy. In any case, whatever is done will be somewhat in the nature of an experiment ; in any case there will be difficulty, and I recognize that there will be danger ; and I think in any case the point of view of a past Governor like myself would be that we have to make the best of whatever is brought forward.

Personally I do not much mind what the form of the Bill is as long as something is done, and as long as there is sufficient elasticity to make whatever is done into something which will lead to a better state of affairs in India. I recognize as fully as

anybody in this House that there is danger. I, perhaps, see some of the dangers which most members of this House do not see—or perhaps I see them a little more clearly. I recognize, and I think the Under-Secretary recognizes, that a very large number of the people of India cannot be said by their best friends, if they speak honestly at this moment, to be very suitable for self-government. But I believe that a great many of them are suitable for it, and I think that we ought not to wait until everyone is suitable. I know that many of those who are politically-minded—which I think is the expression used nowadays about those in India who take an interest in politics (they are a small proportion of the people of India)—have not been hitherto, and are not at this moment, very much enamoured of the present state of affairs. I would go farther and say that many of them do not like government by us. Personally I do not see why they should; and I will say at this moment that if I were an Indian I should hold very advanced views—views which many of your Lordships would look upon as extreme—and I should think that I was fully justified in holding them. But where I differ from many of my friends, especially from those who know India, is that I do not believe they will continue to be hostile to us. By ‘us’ I mean those people of Great Britain who govern India from the executive point of view at present.

No one regrets more than I do the way in which Indians who are most fully informed on political matters dislike and distrust—I think honestly distrust—us. When I first went to Madras, and had not the experience I afterwards got, nothing

gave me greater anxiety than the feeling that Indians who knew and cared most about politics thoroughly distrusted me. I say 'me' definitely, because many of them told me that they distrusted me; they did not distrust me in any personal sense, but they did not see how I could be in a position really to deal honestly with them. That caused me a great deal of anxiety, especially as I know it was honest distrust on their part, which they were not ashamed to avow to me, though they were not anxious to avow it to me; in fact, they would not do it for a long time until they began to trust me to a certain extent. I do not believe that this distrust need go on. I know that there are some men—with longer knowledge of India than I have; knowledge acquired at an earlier stage than I acquired mine—who believe (you have only to look at the newspapers from time to time to learn it) that the politically-minded Indians will not give up that distrust. But that is not my experience.

Oddly enough, I got my Indian mail this morning and I have in my pocket letters from two Bengalis. These are both young men who at one time certainly held views which were not friendly to us, views which would have been looked upon by myself as dangerous, but they were honestly held—it was some time, I confess, before they would confide in me sufficiently to tell me their real ideas—but they are men with whom I had a good deal of conversation and with whom I have had a good deal of correspondence. I am delighted to say that both their letters are about this Bill. They are not exactly the letters with which I dare say many of your Lordships would sympathize fully,

but they say, and I am sure they honestly mean it, that in this Bill they see a prospect of hope which leads them to think that, after all, they have, perhaps, been wrong in the attitude which they held, believing honestly that it was impossible that British government of India could ever be such as they would gladly support. I am not going to deal with that very much. I have mentioned it merely because I know that some of your Lordships are aware that I am in sympathy—more, perhaps, than most who have been in India—with views which are looked upon as somewhat extreme. I am going farther to admit that possibly in the definition of what views were extreme and what were moderate I would go farther in the direction of extremism than a great many of my friends would in saying that certain views were moderate.

We have all been younger than we now are. Some of us have modified our views—I know I have—on many points; and as we grow older I think we learn a certain amount of sense. One thing which, perhaps, people in this country forget is that in India those who take an interest in politics are on the whole younger than the men who take an interest in politics here. It is rather difficult for us in this country to realize—it was very difficult for me to realize it when I first went to India—how much the very young count in matters of that sort. It is only when people begin to be educated—you may call it half-educated or three-quarter educated if you like—in Western ideas, that as a rule men of the upper classes (so to speak), or of the upper middle classes, in India take an interest in politics. Every year the number of men who are so educated becomes

larger and larger. That, I think, is to our credit. I think any of your Lordships who have ever electioneered—as some of you have done and as I myself have done—will remember that the younger men did not count so much from the voting point of view as those who were rather older; but in India the more numerous body taking an interest in politics is always the youngest men, and, therefore, the men who have least experience. Though it is not necessarily so, at any rate you would still think they had all the enthusiasm and all the certainty of youth. It is in favour of British government that these men as they grow older and learn more will think more correctly; and I am conceited enough to think that if Indians think more correctly they will think more as their governors do.

I have said enough upon that. I do not want to take up the time of the House, but there is one small matter at which I want to ask Lord Sinha to look. Perhaps in this I may be looked upon—I know that I am so looked upon by some of my friends—as somewhat reactionary. It is not often that I am looked upon as a reactionary. I do not quite know what ‘reactionary’ means, but generally it seems to me to mean, in the opinion of anybody who uses the term, that he thinks rather differently from you. I have no doubt many of your Lordships read *The Times* newspaper, and perhaps that is the quickest way of getting at the point. If so, although I know some of your Lordships to whom I have spoken missed it, others may have seen the letter from Professor Berriedale Keith, of Edinburgh University. He is a friend of mine, but he has not written to me about this

matter, and I am speaking my own opinion. On December 1 he wrote to *The Times* drawing attention to a point which may be thought a small point, but which he says is of the highest constitutional importance. I confess that I regard it as of very high importance, and it may have escaped consideration. Mr. Keith draws attention to the Amendment in Part II of the Schedule—I am not going to deal with it, because I am sure that Lord Sinha will know what I mean—by which an addition is made to a clause in the Government of India Act, 1915, saying that the Ministers appointed under this Act, as is the case with Governors, Lieutenant-Governors, the Chief Commissioner, and members of the Executive Council of the Governor-General or Lieutenant-Governor, are not to be subject to the original jurisdiction.

There was a reply in *The Times* on Wednesday, December 3, from Sir Edward Chamier, which gave an explanation. No doubt it is the explanation which those who speak for the Government thought was good enough to put forward. It may be the only explanation. A further letter from Professor Keith appeared on Monday, December 8, in which he returned to the point. I am not a lawyer and do not pretend to be one. I have been a Governor in Australia, and a Governor in India, and I am an ordinary, commonplace man here. However, I do not think that this is a very important point. I quite see that it may be said that the new Ministers should be put on the same footing as the Executive Council or as the Governors. Possibly they should be. I am not certain myself that Governors ought to be in that

position. However, this is a question with which constitutional lawyers can deal. Looking to the future—perhaps looking rather far ahead—I think that point ought to be fully considered. Perhaps it has been already, but the public ought to know that it has been more fully considered than the public at present think it has been. I do not believe that very much attention would be drawn to it in India, but my knowledge of India leads me to suppose that it is the sort of point which might come up some years hence. The only people in India who consider that sort of point wish India to be on a level with those other States which make up the British Empire, and I do not believe that they want their Ministers to be in a different position. No doubt these points will be looked into when we get into Committee, where there will be members of your Lordships' House who are learned in the law and in a far better position than I am to judge. I hope the Government will consider it and be able to satisfy us on the matter, because if they do not satisfy us they are raising up difficulty in India in the future.

I said I would not say very much about my ideas as to where this Bill is defective, because there will be criticism from other members of this House, with much of which I shall agree. Where I differ from some members is that I feel more strongly than perhaps they do, that the greatest danger is to do nothing, and that the next greatest danger is to do something which seems in any way to detract from the authority of the Viceroy and from what I would almost call the veneration in which he is held in India. That is why I wish to see something done. This Bill has been put forward

and nothing else, at any rate, has been more definitely proposed. What certainly weighs with me is that it is put forward on the strength of recommendations made by the Viceroy and by the Secretary of State, from which I might differ and do differ, in some respects, but I think it would be most unfortunate for India if we go very far from what they have recommended. That is the reason, more than any other, which weighs with me in being perfectly willing to sink my dislike of some of the provisions of the Bill, about which I know some of your Lordships hold very strong views.

I am not going to press my own view that I think the Bill might have gone farther than it does in certain directions, because I can hardly expect your Lordships to agree with me. As I said a little while ago, if I had gone to India at an earlier date than I did, or if I had gone to a different part of India than that to which I did go, I believe I should not have held the views I do hold. I believe however that those views will be generally held before very long in this country, though it takes a little time for them to spread. Only the younger men among officials think as I do, and I do not wonder at it; but I am not going to dwell on that. I am not sorry, because I know this is merely a step in the right direction. At least, I regard it as a step in the right direction, and I think all your Lordships admit that it is. There are very few members of your Lordships' House interested in India who do not agree that a good deal has to be done.

I think we ought to be very thankful to the noble Earl, Lord Selborne, and the other members of the Select Committee for the Report they have

made. It is a most important document, and I do not think that the Under-Secretary of State overstated the case yesterday when he dwelt upon its importance. For my own part I feel extremely thankful—and I think all friends of India ought to feel thankful—also to my noble friend Lord Sydenham. He and I do not agree on a good many points, but there are others on which we agree very closely. Lord Sydenham has pointed out dangers which he feels, and some of them I feel too, but we have drawn different conclusions, probably because he was not in Bengal in the years when I was there. However, we need not go into that. He is not going to change his mind, and I am afraid I am too stupid or too obstinate to change mine. On one or two other points probably Lord Sydenham will agree with me. This Bill when it becomes an Act will undoubtedly give us a great deal of cause for thought. I assume we are going to pass it, and in that case we are taking a step which would have astonished us if we had known ten years ago that we should take it. We are taking a step which, I think, will surprise people in European countries. At present they are thinking, as we are, of the War, but those interested in politics will be surprised to find that Great Britain is taking this step.

The eyes of the whole world, indeed, will be on India to see what is the result. It lies, and must lie, with the people of India themselves, more than with anyone else, to make this Bill a success. Lord Sinha dealt with this point yesterday, and it is one which he was right to emphasize. Perhaps I can speak on this point more effectively than most people, as owing to circumstances there are

Indians who fancy that I more than many other Englishmen sympathize with their advanced views. Those who are politically-minded in India, to whatever party and to whatever class they belong, are not, as a rule, very satisfied with their present position. I know that there are differences of opinion; that there are extremists and moderates, and that hitherto, perhaps naturally, the extremists have counted for more as a force than the moderates.

There was nothing I regretted more while I was in India than the position in which some of the moderate Indian reformers found themselves. I knew many of them. I have talked with them in Bengal, and I knew some of them in Madras. I did my best to try to know what they were really thinking, and I know that many moderate reformers, those whom the Government looked upon as moderate men, felt very bitterly their position. They were never sure when, to use a common expression, they might be 'put in the cart'. They were never sure when the Government would back them up, and I confess that, after all, one had as a Governor to think more of the views put forward by the extremists than by the moderates.

But neither the extremists nor the moderates had very much power of getting anything done. They could criticize, and of course it was the criticism of the extremists that was most listened to. The moderates made suggestions to me and to my officers. They were not often very practical. How could they be? These people have no experience in administration. When I stood for a constituency in this country I had to listen to people putting forward views which were not exactly practical; and is it any wonder that

impracticable views should be held by men who never had, and thought they would never have, the chance of having any real responsibility ?

I do not blame the officials of the Government in India. They are all over-worked. The worst thing in India is the fact that every official from top to bottom is over-worked. Not one, from the Viceroy down to the most newly-joined officer, but is expected to do far more than any man ought to be expected to do. They try to do the work, but are very much over-worked, and when people are in that state they cannot have the patience, or show the patience, which is expected from them by men who were in the position of Lord Sinha when I first went to Bengal—intelligent men who thought on political questions, who had ideas well worth considering, and who wished to put them before those who alone could give effect to them. The officials had not the time to give to the consideration of these matters, and therefore brushed them aside, civilly I hope, though perhaps not always civilly. I know this from my own experience. You have to brush the proposal aside because you have not the time to deal with it and explain to the man the real position. I do not wonder that the moderate man has often felt that he might just as well be an extremist.

One of the best results of this Bill when it becomes an Act will be that it will give some sense of confidence to the moderate politically-minded Indians. From my knowledge of the Bengalis I do not think that the politically-minded Bengali is as bold as he might be. The politically-minded Madrasi is a much bolder man. That is my experience. I was only a short time in Madras,

but the number of Madrasis who told me I was wrong and gave me good reasons why they thought I was wrong—sometimes they were right—was much larger than the number of Bengalis who expressed their opinion. This is probably due to the fact that in Madras they have for a long time had a series of Governors, whereas I was the first Governor in Bengal. I know many of your Lordships will think, as I think, that a Lieutenant-Governor is much more likely to have real knowledge about Indian affairs than a Governor has. I see just on my right one or two of your Lordships whose knowledge of Indians matters is far greater than mine can be. As to any details I bow to them, certainly, but I do not believe that the ordinary Indian would be as willing to be convinced by them as he would be by me, simply because he knows that they have been brought up in the Indian Civil Service, and he believes that they have got into traditions which, unfortunately but undoubtedly, have aroused a certain amount of distrust among Indians.

I think there is an advantage in having a Governor rather than a Lieutenant-Governor, and a Governor who comes from this country—or I don't care where—but who has not been a Civil Servant in India. I said I do not care where he comes from. I think—it is a fad of my own—that a Governor might sometimes come from another part than the British Isles. However, there is a great advantage in there being in the province one man who is ignorant—I do not care how ignorant—who even may be a fool, but who can ask questions, and whose questions must be answered—who has the right to ask questions and who, when something

happens which he thinks is wrong, has a right to inquire into it. I have asked many questions. I used to ask questions in Madras, and also in Bengal, and I do not mind saying this—that when I went to Bengal, I think that sometimes some of my officers did not quite like my asking the questions which I did ask. They had an idea—a very natural idea—that I, as the first Governor after a change which they did not like quite as much as they might, should have sympathized with them, and that I was wasting their time, and that sort of thing; still they had to answer those questions, and I do not think it was at all a bad thing that they had to do so, because I hope that, when I was in Bengal, amongst Indians the idea grew up that there was one man who was always to be blamed for anything that happened in Bengal, and that man was the Governor.

I have said again and again to them ‘ Well, if it is wrong I am to blame for it. Either I ought to have done it otherwise, or I ought to have seen that the person dealing with it was capable of dealing with it.’ That is not a position in which any Lieutenant-Governor who has been a member of the Civil Service ever can be or can be expected to be in. I say that the Indians must themselves make this Bill a success. If the moderate men prevail, as I hope they will, then this step will lead to success and will lead to further success, but I think it will lie with us—with the Government—to help the moderate men. It will lie with the members of the Civil Service to a great extent to help them, and I believe they will do so. I know myself that members of the Civil Service are not enamoured of this Bill. Many of them are against

it, and I do not wonder at it. Their idea is, and it is a quite correct idea, that they have so far 'run the show', to use a common expression, very well. I think they have. And they do not quite see why we should alter the system. But I feel sure of this, that if we alter the system they will do their very best to make it a success.

I know there are some of them who think that they will not have the power, so to speak, that they have hitherto had. My own view is that with the Ministers the Civil Service will have a very great deal of influence—more influence than they have with any member of an Executive Council. I believe that the Indian gentlemen who become Ministers will certainly want to make a success of their own work. They will be men of intelligence, and they will know that they themselves have no administrative or executive experience, and their first idea will be to rely on the officers who have. I am talking from some experience of Indian Executive Councillors, and my idea is that the Indian Executive Councillors listen to their secretaries and persons who advise them in a way which a secretary cannot complain of. I have discussed matters with my own executive councillors and I always found that my Indian executive councillors when they differed from me, as they sometimes did, quoted to me the views of their secretary, or some other member of the Indian Civil Service, far more than my English executive councillors did. I have not myself the slightest doubt that, at any rate at first, the danger will rather be that the Indian ministers will rely a little bit too much on individual members of the Indian Civil Service, and on English members of the Indian Civil Service.

I shall say no more on that. I just want to say a word or two on two other points. Another person who will be in a great difficulty is undoubtedly the Governor. I am speaking feelingly in this. I think the Governor under the new system will be in a very difficult position. That has been recognized in Lord Selborne's report, and we will have to take care that good men go out as Governors. I know that it will be said it is difficult to find Governors, and still more to find good ones, but I think the future of this Bill will lie with them to a very great extent. One other thing, I am very glad to see that the Joint Committee have recommended that the matter of Europeans in Bengal should, at any rate, be considered. I have always found as a Governor that a great deal of help could be given by non-official Europeans. They do not take much interest in politics. Many of them are Scotsmen, and I am a Scotsman, and I quite sympathize with them. They were attending to their own business, but I often felt that if only they would help me to attend to mine a little more than they did it would help matters on. I hope when it comes to dealing with the rules that they will be considered very fully.

13. *Government of India Act, 1919 (9 & 10 Geo. 5, c. 101)*

WHEREAS it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of self-governing institutions, with a view to the progressive realization of responsible government in British India as an integral part of the empire :

And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken :

And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples :

And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility :

And whereas concurrently with the gradual development of self-governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I

LOCAL GOVERNMENTS

Classification of central and provincial subjects

1.—(1) Provision may be made by rules under the Government of India Act, 1915,¹ as amended by the Government of India (Amendment) Act,

¹ 5 & 6 Geo. 5, c. 61.

1916¹ (which Act, as so amended, is in this Act referred to as 'the principal Act'):

- (a) for the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature;
 - (b) for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments;
 - (c) for the use under the authority of the Governor-General in Council of the agency of local governments in relation to central subjects, in so far as such agency may be found convenient, and for determining the financial conditions of such agency; and
 - (d) for the transfer from among the provincial subjects of subjects (in this Act referred to as 'transferred subjects') to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.
- (2) Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may—
- (i) regulate the extent and conditions of such devolution, allocation, and transfer;
 - (ii) provide for fixing the contributions payable by local governments to the Governor-General in Council, and making such con-

- tributions a first charge on allocated revenues or moneys ;
- (iii) provide for constituting a finance department in any province, and regulating the functions of that department ;
 - (iv) provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein ;
 - (v) provide for the settlement of doubts arising as to whether any matter does or does not relate to a provincial subject or a transferred subject, and for the treatment of matters which affect both a transferred subject and a subject which is not transferred ; and
 - (vi) make such consequential and supplemental provisions as appear necessary or expedient ;

Provided that, without prejudice to any general power of revoking or altering rules under the principal Act, the rules shall not authorize the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council.

(3) The powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under the principal Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under that Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified. •

(4) The expressions 'central subjects' and 'provincial subjects' as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as 'reserved subjects'.

Borrowing powers of local governments

2.—(1) The provision in subsection (1) of section thirty of the principal Act, which gives power to local governments to raise money on real or personal estate within the limits of their respective governments by way of mortgage or otherwise, shall have effect as though that provision conferred a power on local governments to raise money on the security of their allocated revenues, and to make proper assurances for that purpose.

(2) Provision may be made by rules under the principal Act as to the conditions under which the power to raise loans on the security of allocated revenues shall be exercised.

(3) The provision in subsection (1) of section thirty of the principal Act, which enables the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India to prescribe provisions or conditions limiting the power to raise money, shall cease to have effect as regards the power to raise money on the security of allocated revenues.

Revised system of local government in certain provinces

3.—(1) The presidencies of Fort William in Bengal, Fort St. George, and Bombay, and the provinces known as the United Provinces, the

Punjab, Bihar and Orissa, the Central Provinces, and Assam, shall each be governed, in relation to reserved subjects, by a governor in council, and in relation to transferred subjects (save as otherwise provided by this Act) by the governor acting with ministers appointed under this Act.

The said presidencies and provinces are in this Act referred to as 'governor's provinces' and the two first-named presidencies are in this Act referred to as the presidencies of Bengal and Madras.

(2) The provisions of section forty-six to fifty-one of the principal Act, as amended by this Act, shall apply to the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and Assam, as they apply to the presidencies of Bengal, Madras, and Bombay: Provided that the governors of the said provinces shall be appointed after consultation with the Governor-General.

Appointment of ministers and council secretaries

4.—(1) The governor of a governor's province may, by notification, appoint ministers, not being members of his executive council or other officials, to administer transferred subjects, and any ministers so appointed shall hold office during his pleasure.

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council in that province, unless a smaller salary is provided by vote of the legislative council of the province.

(2) No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

(3) In relation to transferred subjects, the gover-

nor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice : Provided that rules may be made under the principal Act for the temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(4) The governor of a governor's province may at his discretion appoint from among the non-official members of the local legislature council secretaries, who shall hold office during his pleasure, and discharge such duties in assisting members of the executive council and ministers, as he may assign to them.

There shall be paid to council secretaries so appointed such salary as may be provided by vote of the legislative council.

A council secretary shall cease to hold office if he ceases for more than six months to be a member of the legislative council.

Qualification of members of local Executive Councils

5.—(1) The provision in section forty-seven of the principal Act, that two of the members of the executive council of the governor of a province must have been for at least twelve years in the service of the Crown in India, shall have effect as though ' one ' were substituted for ' two ', and the provision in that section that the Commander-in-Chief of His Majesty's Forces in India, if resident at Calcutta, Madras, or Bombay, shall, during his

continuance there, be a member of the governor's council, shall cease to have effect.

(2) Provision may be made by rules under the principal Act as to the qualifications to be required in respect of members of the executive council of the governor of a province in any case where such provision is not made by section forty-seven of the principal Act as amended by this section.

Business of governor in council and governor with ministers

6.—(1) All orders and other proceedings of the government of a governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the governor may by rule direct, so, however, that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings.

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(2) The governor may make rules and orders for the more convenient transaction of business in his executive council and with his ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

The governor may also make rules and orders for regulating the relations between his executive council and his ministers for the purpose of the transaction of the business of the local government :

Provided that any rules or orders made for the

purposes specified in this section which are repugnant to the provisions of any rules made under the principal Act as amended by this Act shall, to the extent of that repugnancy, but not otherwise, be void.

Composition of governors' legislative councils

7.—(1) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of members nominated or elected as provided by this Act.

The governor shall not be a member of the legislative council, but shall have the right of addressing the council, and may for that purpose require the attendance of its members.

(2) The number of members of the governors' legislative councils shall be in accordance with the table set out in the First Schedule to this Act; and of the members of each council not more than twenty per cent. shall be official members, and at least seventy per cent. shall be elected members:

Provided that—

(a) subject to the maintenance of the above proportions, rules under the principal Act may provide for increasing the number of members of any council, as specified in that schedule; and

(b) the governor may, for the purposes of any Bill introduced or proposed to be introduced in his legislative council, nominate, in the case of Assam one person, and in the case of other provinces not more than two persons, having special knowledge or experience of the subject-matter of the

Bill, and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the council, and shall be in addition to the numbers above referred to ; and

- (c) members nominated to the legislative council of the Central Provinces by the governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.

(3) The powers of a governor's legislative council may be exercised notwithstanding any vacancy in the council.

(4) Subject as aforesaid, provision may be made by rules under the principal Act as to—

- (a) the term of office of nominated members of governors' legislative councils, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, resignation duly accepted, or otherwise ; and

- (b) the conditions under which and manner in which persons may be nominated as members of governors' legislative councils ; and

- (c) the qualification of electors, the constitution of constituencies, and the method of election for governors' legislative councils, including the number of members to be elected by communal and other electorates, and any matters incidental or ancillary thereto ; and

- (d) the qualifications for being and for being nominated or elected a member of any such council ; and
- (e) the final decision of doubts or disputes as to the validity of any election ; and
- (f) the manner in which the rules are to be carried into effect :

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulations affecting the same matters.

(5) Subject to any such rules, any person who is a ruler or subject of any State in India may be nominated as a member of a governor's legislative council.

Sessions and duration of governors' legislative councils

8.—(1) Every governor's legislative council shall continue for three years from its first meeting :

Provided that—

- (a) the council may be sooner dissolved by the governor ; and
- (b) the said period may be extended by the governor for a period not exceeding one year, by notification in the official gazette of the province, if in special circumstances (to be specified in the notification) he so think fit ; and
- (c) after the dissolution of the council the governor shall appoint a date not more than six months or, with the sanction of the Secretary of State, not more than nine months from the date of dissolution for the next session of the council.

(2) A governor may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council.

(3) Any meeting of a governor's legislative council may be adjourned by the person presiding.

(4) All questions in a governor's legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.

Presidents of governors' legislative councils

9.—(1) There shall be a president of a governor's legislative council, who shall, until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the governor, and shall thereafter be a member of the council elected by the council and approved by the governor :

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session.

(2) There shall be a deputy-president of a governor's legislative council who shall preside at meetings of the council in the absence of the president, and who shall be a member of the council elected by the council and approved by the governor.

(3) The appointed president of a council shall hold office until the date of the first election of a president by the council under this section, but

he may resign office by writing under his hand addressed to the governor, or may be removed from office by order of the governor, and any vacancy occurring before the expiration of the term of office of an appointed president shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the governor, and may be removed from office by a vote of the council with the concurrence of the governor.

(5) The president and the deputy-president shall receive such salaries as may be determined, in the case of an appointed president, by the governor, and in the case of an elected president or deputy-president, by Act of the local legislature.

Powers of local legislatures

10.—(1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local legislature of any province may, subject to the provisions of the subsection next following, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

(a) imposing or authorizing the imposition of

- any new tax unless the tax is a tax scheduled as exempted from this provision by rules made under the principal Act ; or
- (b) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the government of India, provided that the imposition or alteration of a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty ; or
- (c) affecting the discipline or maintenance of any part of His Majesty's naval, military, or air forces ; or
- (d) affecting the relations of the government with foreign princes or states ; or
- (e) regulating any central subject ; or
- (f) regulating any provincial subject which has been declared by rules under the principal Act to be, either in whole or in part, subject to legislation by the Indian Legislature, in respect of any matter to which such declaration applies ; or
- (g) affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force ; or
- (h) altering or repealing the provisions of any law which, having been made before the commencement of this Act by any authority in British India other than that local legislature, is declared by rules under the principal Act to be a law which cannot be repealed or altered by the local legislature without previous sanction ; or

- (i) altering or repealing any provision of an Act of the Indian Legislature made after the commencement of this Act, which by the provisions of that Act may not be repealed or altered by the local legislature without previous sanction :

Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.

Business and procedure in governors' legislative councils

11.—(1) Subsections (1) and (3) of section eighty of the principal Act (which relate to the classes of business which may be transacted at meetings of local legislative councils) shall cease to apply to a governor's legislative council, but the business and procedure in any such council shall be regulated in accordance with the provisions of this section.

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the council in the form of demands for grants. The council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole

grant or by the omission or reduction of any of the items of expenditure of which the grant is composed :

Provided that—

- (a) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject ; and
- (b) the governor shall have power in cases of emergency to authorize such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department ; and
- (c) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the governor, communicated to the council.

(3) Nothing in the foregoing subsection shall require proposals to be submitted to the council relating to the following heads of expenditure :

- (i) contributions payable by the local government to the Governor-General in Council ; and
- (ii) interest and sinking fund charges on loans ; and
- (iii) expenditure of which the amount is prescribed by or under any law ; and

- (iv) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ; and
- (v) salaries of judges of the high court of the province and of the advocate-general.

If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the governor shall be final.

(4) Where any Bill has been introduced or is proposed to be introduced, or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(5) Provision may be made by rules under the principal Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the council, and as to the persons to preside over meetings thereof in the absence of the president and deputy-president, and the preservation of order at meetings ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

(6) Standing orders may be made providing for the conduct of business and the procedure to be

followed in the council, in so far as these matters are not provided for by rules made under the principal Act. The first standing orders shall be made by the governor in council, but may, subject to the assent of the governor, be altered by the local legislatures. Any standing order made as aforesaid which is repugnant to the provisions of any rules made under the principal Act, shall, to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the council, there shall be freedom of speech in the governors' legislative councils. No person shall be liable to any proceedings in any court by reason of his speech or vote in any such council, or by reason of anything contained in any official report of the proceedings of any such council.

Return and reservation of Bills

12.—(1) Where a Bill has been passed by a local legislative council, the governor, lieutenant-governor or chief commissioner may, instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the council for reconsideration, either in whole or in part, together with any amendments which he may recommend, or, in cases prescribed by rules under the principal Act may, and if the rules so require shall, reserve the Bill for the consideration of the Governor-General.

(2) Where a Bill is reserved for the consideration of the Governor-General, the following provisions shall apply :—

(a) The governor, lieutenant-governor or chief

commissioner may, at any time within six months from the date of the reservation of the Bill, with the consent of the Governor-General, return the Bill for further consideration by the council with a recommendation that the council shall consider amendments thereto :

- (b) After any Bill so returned has been further considered by the council, together with any recommendations made by the governor, lieutenant-governor or chief commissioner relating thereto, the Bill, if re-affirmed with or without amendment, may be again presented to the governor, lieutenant-governor, or chief commissioner :
- (c) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, in the same way as a Bill assented to by the governor, lieutenant-governor or chief commissioner, but, if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect unless before the expiration of that period either—
- (i) the Bill has been returned by the governor, lieutenant-governor or chief commissioner, for further consideration by the council ; or
 - (ii) in the case of the council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.
- (3) The Governor-General may (except where the

Bill has been reserved for his consideration), instead of assenting to or withholding his assent from any Act passed by a local legislature, declare that he reserves the Act for the signification of His Majesty's pleasure thereon, and in such case the Act shall not have validity until His Majesty in Council has signified his assent and his assent has been notified by the Governor-General.

Provision for case of failure to pass legislation in governors' legislative councils

13.—(1) Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto, be deemed to have passed, and shall, on signature by the governor, become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor.

(2) Every such Act shall be expressed to be made by the governor, and the governor shall forthwith send an authentic copy thereof to the Governor-General, who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the local legislature and duly assented to :

Provided that, where in the opinion of the Governor-General a state of emergency exists which justifies such action, he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act shall have such force and effect as aforesaid, subject however to disallowance by His Majesty in Council.

(3) An Act made under this section shall, as soon as practicable after being made, be laid before each House of Parliament, and an Act which is required to be presented for His Majesty's assent shall not be so presented until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat.

Vacation of seats in local legislative councils

14. An official shall not be qualified for election as a member of a local legislative council, and, if any non-official member of a local legislative council, whether elected or nominated, accepts any office in the service of the Crown in India, his seat on the council shall become vacant :

Provided that for the purposes of this provision a minister shall not be deemed to be an official and a person shall not be deemed to accept office on appointment as a minister.

Constitution of new provinces, &c., and provision as to backward tracts

15.—(1) The Governor-General in Council may, after obtaining an expression of opinion from the local government and the local legislature affected, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new governor's province,

or place part of a governor's province under the administration of a deputy-governor to be appointed by the Governor-General, and may in any such case apply, with such modifications as appear necessary or desirable, all or any of the provisions of the principal Act or this Act relating to governors' provinces, or provinces under a lieutenant-governor or chief commissioner, to any such new province or part of a province.

(2) The Governor-General in Council may declare any territory in British India to be a 'backward tract', and may, by notification, with such sanction as aforesaid, direct that the principal Act and this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification. Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian Legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof subject to such exceptions or modifications as the Governor-General thinks fit, or may authorize the governor in council to give similar directions as respects any Act of the local legislature.

Saving

16.—(1) The validity of any order made or action taken after the commencement of this Act by the Governor-General in Council or by a local government which would have been within the powers of the Governor-General in Council or of such local government if this Act had not been passed, shall not be open to question in any legal

proceedings on the ground that by reason of any provision of this Act or of any rule made by virtue of any such provision such order or action has ceased to be within the powers of the Governor-General in Council or of the government concerned.

(2) Nothing in this Act, or in any rule made thereunder, shall be construed as diminishing in any respect the powers of the Indian legislature as laid down in section sixty-five of the principal Act, and the validity of any Act of the Indian legislature or any local legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincial subject or a central subject, as the case may be, and the validity of any Act made by the governor of a province shall not be so open to question on the ground that it does not relate to a reserved subject.

(3) The validity of any order made or action taken by a governor in council, or by a governor acting with his ministers, shall not be open to question in any legal proceedings on the ground that such order or action relates or does not relate to a transferred subject, or relates to a transferred subject of which the minister is not in charge.

PART II

GOVERNMENT OF INDIA

Indian legislature

17. Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this

Act, a Bill shall not be deemed to have been passed by the Indian legislature unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.

Council of State

18.—(1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under the principal Act, of whom not more than twenty shall be official members.

(2) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(3) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.

Legislative Assembly

19.—(1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under the principal Act.

(2) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred :

Provided that rules made under the principal Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members

of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.

President of Legislative Assembly

20.—(1) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General :

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(2) There shall be a deputy-president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(3) The appointed president shall hold office until the date of the election of a president under this section, but he may resign his office by writing under his hand addressed to the Governor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be

filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(5) A president and deputy-president shall receive such salaries as may be determined, in the case of an appointed president by the Governor-General, and in the case of an elected president and a deputy-president by Act of the Indian legislature.

Duration and sessions of Legislative Assembly and Council of State

21.—(1) Every Council of State shall continue for five years, and every Legislative Assembly for three years, from its first meeting :

Provided that—

- (a) either chamber of the legislature may be sooner dissolved by the Governor-General ; and
- (b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit ; and
- (c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or, with the sanction of the Secretary of State, not more than nine months after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.

Membership of both chambers

22.—(1) An official shall not be qualified for election as a member of either chamber of the Indian legislature, and, if any non-official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant.

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first-mentioned chamber shall thereupon become vacant.

(3) If any person is elected a member of both chambers of the Indian legislature, he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(4) Every member of the Governor-General's

Executive Council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.

Supplementary provisions as to composition of Legislative Assembly and Council of State

23.—(1) Subject to the provisions of this Act, provision may be made by rules under the principal Act as to—

- (a) the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise ; and
- (b) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly ; and
- (c) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matters incidental or ancillary thereto ; and
- (d) the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly ; and

- (e) the final decision of doubts or disputes as to the validity of an election ; and
- (f) the manner in which the rules are to be carried into effect.

(2) Subject to any such rules, any person who is a ruler or subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly.

Business proceedings in Indian legislature

24.—(1) Subsections (1) and (3) of section sixty-seven of the principal Act (which relate to the classes of business which may be transacted by the Indian legislative council) shall cease to have effect.

(2) Provision may be made by rules under the principal Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the persons to preside at the meetings of the legislative assembly in the absence of the president and the deputy-president ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

(3) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers : Provided that standing orders made under this section may provide for

meetings of members of both chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two chambers.

(4) Without prejudice to the powers of the Governor-General under section sixty-eight of the principal Act, the Governor-General may, where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.

(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under the principal Act. The first standing orders shall be made by the Governor-General in Council, but may, with the consent of the Governor-General, be altered by the chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under the principal Act shall, to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the chamber, there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber.

Indian budget

25.—(1) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

(3) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the legislative assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs—

- (i) interest and sinking fund charges on loans ;
and
- (ii) expenditure of which the amount is prescribed by or under any law ; and
- (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ;
and
- (iv) salaries of chief commissioners and judicial commissioners ; and
- (v) expenditure classified by the order of the Governor-General in Council as—
 - (a) ecclesiastical ;
 - (b) political ;
 - (c) defence.

(4) If any question arises whether any proposed appropriation of revenue or moneys does or does not