

SIR SANKARAN NAIR'S  
MINUTES OF DISSENT

WITH  
CHAMPARAN AND KAIRA  
APPENDIX

MICROFORMED BY  
PRESERVATION  
SERVICES  
DATE.. MAY. 1. 2. 1992...

GANESH & Co., MADRAS.

# The Despatch on the Reforms

## DISSENTING MINUTE

BY

SIR SANKARAN NAIR.

*The following is the minute of Dissent by Sir C. Sankaran Nair, dated March 5, 1919 :—*

1. The policy of His Majesty's Government has been announced to be "the progressive realization of responsible government in India as an integral part of the British Empire." Some critics are apparently of opinion that this means the complete, though gradual, transfer of control from Parliament to legislatures in India. The words that India should be "an integral part of the British Empire" appear to me to forbid such an interpretation. As long as India remains an integral part of the British Empire, the paramountcy of Parliament must be recognised and maintained. Limitations may possibly be placed upon the exercise of the powers of Parliament by practice and well-understood conventions. In fact 'the control of Parliament' may have one meaning, in certain colonies and another meaning elsewhere. But the legal right of Parliament at any time to interfere with the

Government of India must, for various reasons which it is unnecessary here to enumerate, be beyond doubt. What in my opinion "responsibility" implies is the subordination of the executive to the legislative council composed of the representatives of the people. For this purpose, it makes no difference whether they are governments nominated by the legislative council or not. The essential point is that they must carry out the will of the legislature in every respect.

The proposals made by my colleagues tend to the diminution of Parliamentary control not for the purpose of transference of such power to the legislative councils of the country, but to the executive governments in India. What the Indians desire is not that Parliament should surrender in favor of the executive governments its power of control, but that it should delegate it to popular assemblies in India when it should think it proper to do so. During the period of transaction, Parliament or any authority in England which faithfully represents Parliament might interfere with the exercise of any delegated authority by the legislative assemblies in India at the instance of the executive authorities or otherwise. I do not think that well-informed moderate Indian opinion will raise any objection to a real intelligent control by Parliament in Indian affairs. So far as I know they rather invite it. This difference of opinion

will be found to explain a great deal of the differences between many of the proposals put forward respectively by the Government of India and by the Congress Party. The India Office, with the Secretary of State, as at present constituted, does not faithfully represent Parliament.

2. Another criticism in opposition to this announcement and the steps proposed to be taken under it is, that it is hopeless to introduce into India a government responsible to the people of the country, as any system of government other than that of absolute monarchy was unknown in India and is entirely foreign and repugnant to the genius of the people. Those who advance this objection apparently ignore the influence of education environment, association, political evolution, time spirit, etc. Besides as a matter of fact non-monarchical forms of government are not foreign to the genius of the people. I shall confine myself to the testimony of European writers. According to Professor Roy's Davids "the earliest Buddhist records reveal the survival, side by side with more or less powerful monarchies, of republics with either complete or modified independence." He also says: "The administrative and judicial business of the clan was carried out in public assembly at which young and old were alike present in their common Mote Hall at Kapilavastu. A single chief—how and for what period chosen we do not know—was

elected an office-bearer, presiding over the State. He bore the title of Raja, which must have meant something like the Roman Consul or the Greek Archon." The Greek writer refers to tribes who dwelt "in cities in which the democratic form of government prevailed." (Ancient India Alexander's Invasion, McCrindle, page 292). There is also a reference to another tribe 'where the form of government was democratic and not legal.' Various other tribes who opposed Alexander are referred to as living under a democratic form of government (see Arrian Anabasis: McCrindle, page 154). Diadoross speaks of a Patala as a city "with a political constitution drawn on the same lines as the Spartan; for in this community the command in war is vested in two hereditary kings of two different houses, while a Council of Elders rules the whole State with paramount authority."

(1) The latest authority that I know of on the subject is Mr. Havell, (2). He says: "The common belief of Europe that Indian monarchy was always an irresponsible and arbitrary despotism is, so far

(1) I omit all references, to the Vedas Mahabharata and the other Indian including Buddhistic authorities which are all referred to, along with what I have cited above, in two forthcoming works by K. P. Jayaswal and Dr. Bhandarkar respectively which will be shortly issued by the Calcutta University; and some of them also by Pramathanath Banerjea in his "Public Administration in Ancient India."

(2) E. B. Havell. "The History of Aryan Rule in India" Harrap & Company (1918).

as it concerns the pre-Mubammadan period only one of the many false conceptions of Indian history held by Europeans." "It will be a surprise to many readers to discover that the mother of the Western Parliaments had an Aryan relative in India, showing a strong family likeness, before the sixth century B. C. and that her descendants were a great power in the state at the time of the Norman conquest." (1)

"The liberty of the Englishman was wrung from unwilling rulers by bitter struggles and by civil war. India's Aryan constitution was a free gift of the intellectuals to the people; it was designed not in the interests of one class, but to secure for all classes as full a measure of liberty and of spiritual and material possessions as their respective capacities and consideration for the common weal permitted."

Megasthenes refers to the assemblies in Southern India also controlling and even deposing kings. How long these forms of government subsisted, it is now not easy to say. It certainly prevailed on the West Coast of India among the Nairs at the time of the Portuguese invasion. The Portuguese writer speaks of the "Parliament" which controlled the Kings (cited in Logan's District Manual of Malabar). The Jirgahs on the North-West of India which in the British territories now consist of the nominees of the Deputy Commissioner or Commissioner are the representatives of the old tribal assemblies which settled questions of war and peace and other

important questions of government. Across the frontier the Jirghas still exercise in some places those rights. The political conditions in India were not favourable for the survival of democratic institutions. That the spirit of popular government had not died when the British Government took possession of the country is however clear.

3. It can scarcely be denied that in the ordinary villages a democratic form of government prevailed when the British took possession of the country "Neither ancient nor modern history in Europe can show a system of local self-government more scientifically planned, nor one which provided more effective safeguards against abuses, than that which was worked out by Aryan philosophers as the social and political basis of Indo-Aryan religion." (1) The Fifth Report of the Select Committee of the House of Commons accurately describes how the village republics had survived invasions, convulsions and monarchy after monarchy. On this question Sleeman Travels and Max Muller's *What India can teach us* may be referred to. These village assemblies administered justice—both civil and criminal. The supreme government dealt with them and not with the inhabitants of the villages. They apportioned the revenue or tax among the inhabitants. They

(1) E. B. Havell. "The History of Aryan Rule in India"  
Harrap & Company (1918)

(2) Intro. XIII.



owned the public lands, and not the government. They consisted of elected members. We have got the election rules, containing the qualifications, disqualifications, etc., in detail of the electors of long long ago preserved in inscriptions. (2) But they were incompatible with the revenue system of the British Government and with their administration of civil and criminal justice. The old village officials were converted by our government into government servants and became, according to popular view government tyrants. The village entity was not recognised and in some provinces was destroyed by legislation. The common land became government lands. The so-called village organizations which are the creation of British legislation or administration bear no resemblance to the ancient assemblies. It is impossible for any one who has even cursorily studied the history of village assemblies to maintain that the spirit of popular government has died out among the people.

4. Every Indian lawyer knows the caste assemblies which settle caste disputes often involving ownership to properties of great value. The argument from administration of justice also seems to be a conclusive answer to those who maintain absolutism as an essential feature of Indian polity. We now administer the Hindu laws of inheritance and certain other laws which are inseparably bound with the law of inheritance. Yet they are not laws



which, so far as we know, had the sanction of any sovereign. They were framed by great law-givers, not kings, and those laws were applied by caste or village assemblies to cases of individuals that came up before them. It is not right to say that any system other than that of absolute monarchy is repugnant to Hindu genius.

5. Besides, apart from the ideas and traditions which Indians have inherited with their respective civilizations, they have also imbibed the ideas of representative institutions under British Rule. For the last thirty-five years they have been more or less familiarized with elected or representative Municipal Boards and District and Taluk Boards, Congress and Conferences. They have been praying for the introduction of representative Legislative Councils. And there is no form of Government which appeals more to the thoughtful among Indians to-day than a Government where the representatives of the people would sit to decide questions which affect the people.

It is important to note the growth of Indian public opinion on this question in order to judge what measures of reform are needed in the present condition of India and what are likely to satisfy that opinion.

My colleagues have not attached due weight to these considerations and have accordingly proposed

various modifications which would make the Reforms Report scheme inconsistent with the announcement of the 20th August and utterly inadequate to meet the needs of the situation. To show this, I shall first state the proposals in the Reforms Report, and before dealing with the modifications proposed by my colleagues, draw attention to the conditions of the problem as they have developed during the the last thirty years, which, in my opinion, have not received due consideration.

#### THE SCHEME—THE GOVERNMENT IN THE PROVINCES.

6. The proposals in the Report may be divided into three broad divisions (1) Certain departments of government, say local self-government etc., are to be placed under the control of Indian "Ministers" who will be responsible to legislative councils in the provinces composed of a large majority of members elected by the people and therefore entitled to be called themselves their representatives. Those departments are to be administered by the Minister under the general supervision of the Governor of the Province.

(2) Other departments, which will consist of what are called "Reserved" subjects, are to be administered by an Executive Council composed of one official, preferably an English Civilian, and one Indian appointed on the recommendation of the

Governor. The Minister and the Legislative Council are to exercise considerable influence in the administration of the "Reserved" subjects as the entire body consisting of the Executive Council and the Ministers are to form one united government deliberating jointly in all important matters though the decisions are to be taken only by the executive authorities in each department; there is to be only one common budget for both in the settlement of which, in cases of differences of opinion between the Minister and the Executive Council, the Governor is to have the deciding voice. The budget so settled may be modified by the Legislative Council in any way they like, subject to the power of the Governor to restore any provision in the budget which he might think it necessary to do in the interests of the "Reserved" subjects. And finally no taxation in any instance is to be imposed without the consent of the Minister. It will thus be seen that these provisions give the Minister and the Legislative Council considerable influence in the administration of the reserved subjects; and the Executive Council is thus, though indirectly, made amenable to the influence of the Legislative Council in various important respects. In view of what I consider the retrograde proposals which are now being put forward by the Government of India, these proposals about reserved subjects are very important. Periodical enquiries are to be

made by Parliamentary Commission for the purpose of removing subjects from the "Reserved" list into the "Transferred" list. The success of the Minister and of the Legislative Council in dealing with transferred subjects might not in itself constitute an adequate ground for the transfer of any of the reserved subjects which would ordinarily be of a very different kind. It is only the nature of the advice offered by the Minister and the Council and the influence brought by them to bear upon matters relating to the reserved subjects that would furnish the Commission with satisfactory reasons for their fitness for administering subjects so far withheld from them. These provisions, therefore, as to unity of government—the influence of the Ministers and the legislature over the reserved subjects—form an essential part of the scheme of the Reforms Report. From the Indian point of view, their importance is still greater. The reserved subjects will naturally consist of various and important subjects in which great administrative and other improvements, according to public opinion, are necessary. These provisions will enable the Legislative Councils and the Minister to insist upon the various necessary and beneficial reforms, with the result that if those reforms are not carried out, the Commission of Enquiry will be able to hold the Executive Council responsible for the short-comings of the administration and will feel justified accord-

ingly in transferring the government of those subjects to the Minister and the Legislative Council.

(3) There is a third class of subjects which are under the control of the Government of India, who are to be responsible only to Parliament. They have no responsibility in any sense to the Legislative Council ; but the Indian element is to be materially increased both in the Executive and the Legislative Councils so that they might materially influence the decisions of the India Government.

It is also a feature of the Report that the Government of India are to retain within their control as few subjects as possible, i.e., those which are necessary for peace, order and good government of the country. Therefore as large a devolution to the provincial governments as is compatible with this obligation of the Government of India is to be carried out. It will be seen that this follows necessarily from one of the main conditions of the problem i.e., that under the existing system reforms are difficult, if not impossible.

7. I accept these principles and also generally the scheme in so far as it refers to the provinces. I shall have to suggest a few modifications but they will be strictly consistent with these principles and in fact are only intended to carry them out a little further in their application to the provincial Government but as will be shown presently my colleagues have considerably modified the

scheme. According to the scheme as modified by them there is really no responsibility left so far as the transferred departments are concerned, and so far as reserved departments are concerned the influence of the Minister and the Legislative Council has been eliminated. The justification for their proposals is the assumption made by them, that those to whom powers would be transferred according to the scheme are an oligarchy who may use them to the detriment of the masses, that the demand for reform emanates only from a small and comparatively insignificant class, that political progress will be accompanied with loss of efficiency and that the administration which has hitherto been conducted according to British standards and ideals will gradually acquire what is called an Indian character. In the reforms report also there are indications that these views may have influenced its authors in restricting the scope of reforms. With reference to this the following facts have to be borne in mind.

8. The Indian National Congress was started in the year 1885 to divest the Government of India if possible of its autocratic character and to make it conform to English standards and ideals. For this purpose it was hoped that the representation of grievances to the Indian and the British Government by themselves and by elected members in the Legislative Councils would secure their redress.



The first Congress demanded an enquiry into the working of the Indian administration on account of the deterioration of the condition of the people. The second Congress, which met at Calcutta in 1886 and which was really the first Congress composed of delegates from the various parts of India after passing a resolution of congratulations to Her Majesty passed the following resolution:—

“That this Congress regards with the deepest sympathy and views with grave apprehension the increasing poverty of vast numbers of the population of India, and (although aware that the Government is not overlooking this matter and is contemplating certain palliatives) desires to record its fixed conviction that the introduction of representative institutions will prove one of the most important practical steps towards amelioration of the condition of the people.”

It will be observed that representative institutions were demanded in order to deal effectively with the increasing poverty of India. It is also remarkable that many amendments were proposed putting forth palliatives for the poverty of the masses like the permanent settlement, wider employment of Indians, encouragement of indigenous trade, etc., but they were all rejected, and the above mentioned resolution was carried.

The official report of the third Congress recorded that, “the Indian community des-



pair of obtaining any material alleviation of the misery they see around them, until they can secure a potential voice in the administration." And it was added:—"It is this conviction, more than anything else, that is giving such an intense earnestness to their efforts in the direction of representation." Accordingly, when General Booth of the Salvation Army, commending "to the attention of Congress the claims of the millions of India's starving poor," suggested certain schemes, the seventh Indian National Congress passed a formal resolution that the relief of the millions of half-starving paupers, whose sad condition constitutes the primary *raison d'être* of the Congress, cannot be secured by any palliatives; and said, it is only by modifying the adverse conditions out of which this wide-spread misery arises, and by raising the moral standard of the people, that any real relief is possible. As regards the first, the Congress programme now embodies all primarily essential reforms; as regards the second in every province and in every caste, associations, public or private, are working with a yearly increasing earnestness."

9. Among the reforms which the Congress from that time up to the present have been pressing are compulsory primary education in the interests of the masses, technical education for industrial development, local self-government, mainly in

the interests of sanitation, etc., separation of judicial and executive functions for better administration of justice, reform of the land revenue system, abandonment of the theory that land forms the private property of the Crown to be dealt with by the executive at its pleasure and the recognition of national ownership of land by bringing what are called the Revenue settlements under the control of representative Legislative Councils, a far larger admission of Indians into the public services without racial distinction. These are some of the most important of the reforms which have been put forward.

These and other reforms were pressed upon the attention of Government by Indians whose capacity was undoubted, who subsequently rose high in Government services and with ability which left nothing to be desired. There was agitation not only on the Congress platform but elsewhere also. Subsequently in the Legislative Councils the elected members continued the process but all this was scarcely of any avail. The result on the other hand was a stiffening of the Civil Service opposition to Indian progress mainly on the ground that English ideals are not suited to India. Gokhale said that unanimity in expression of good-will, various proposals of reform by individuals, general opposition to every particular proposal, indifference, if not refusal, to carry out the clear intentions

and orders of the British Nation have characterised the attitude of the Civil Service. The Indian politician who has taken any part in Indian public life or who has any experience of the real Government of the country, came to the conclusion that under the Indian Civil Service who form and carry on the real Government, no real progress which, in the present circumstances of the country is indispensable, can be expected. The result on the part of the constitutionalists is a demand for reforms of the character now put forward. The grievances due to the alleged mis-government and the apparent hopelessness of their redress under the existing conditions are responsible for sedition and revolutionary movement; latterly, the natural desire for self-Government and the forces that have been let loose since the war have reinforced the claim for reform. This general demand had not its origin, as stated in the Reforms Report, solely or mainly in the desire, however natural, of the English educated Indians for an increasing share in the administration or for self-Government, though no doubt there were a few advanced thinkers who might have put forward Home Rule even thirty years ago. Reform was at first regarded simply as a means to improve administration according to English ideals and is even now so held by a considerable section. Matters have now, however, assumed a different aspect and the association of

Indian in every branch of Government and self-Government are regarded as an end in itself and the only panacea for the evils complained of.

10. The opponents of this movement maintained that the Congress was started by the Bengalis and the Brahmins of South India, and that India as a whole was not with them. The Mahrathas were invited to declare that they had nothing to do with these Bengali and South Indian agitators. We know now the answer. The Mahomedans were warned that the Government might tolerate the agitation carried on by certain classes, but they, the Mahomedans, will not meet with the same tolerant reception. No efforts were spared to inform them that the Congress was hostile to them. The exigencies of controversy alone can now represent the attitude of the Mahomedans as hostile to reforms. Indeed their advanced section asks for reforms more far-reaching than any that the Hindus claim. Anti-Congress politicians were certain that the races like the Sikhs and other Punjabis at least are bound to be opposed to Home Rule. It is doubtful now whether there are stronger adherents to Home Rule than those in the Punjab. At the last Congress in Delhi it was the determined attitude of the Punjabis that forced the Congress to demand reforms far in excess of those in the Reforms Report. The Non-Brahmins and the Depressed Classes have awakened to

a sense of their political helplessness and to their wretched condition, and no longer content to rely upon the Government which has left them in this condition for the past hundred years, claim a powerful voice, in the determination of their future. It is enough to say that they want half the Members of all the Executive Council, including the Viceroy to be Indians, and an elected majority in all the Legislative Councils, without the checks provided by the Grand Committees and State Councils, their interests being adequately protected by what is called communal representation. The demands for a large measure of reform varying from Home Rule to the demands of the depressed classes as stated above have now become general.

11. After the Mutiny, Sir Sayyed Ahmad pointed out that it was absolute ignorance on the part of the Englishmen of the real condition of the country that was responsible for the Mutiny, and he advocated the appointment of Indian members to the Legislative Councils to give the English rulers information of the needs of the country. The men nominated by the Government proved utterly useless for the purpose. Nomination was found to be an absolute failure. The Congress then claimed a representative element in the Legislative Councils in the hope that if the authorities were kept well-informed by the authorised representatives of the nation, the condition of

the masses of the country would be vastly improved. Lord Lansdowne introduced an elected element into the Councils, but there was no real improvement. All their efforts for more than fifteen years proved abortive. They were told that they did not know the conditions of the country themselves; that the officials knew better; and against their strong protests measures were enacted and a line of conduct pursued which led to the growth of sedition in the country. Lord Morley then enlarged the Legislative Councils to provide real representation of the various classes of the people so that the same reproach might no more be levelled that the Councils did not represent the real voice of the nation. He provided for resolutions to be moved in the Council so that the Indians might be able to formulate their views for the consideration of the officials, and the officials might be enabled to give their reasons in reply. He also provided, what is equally important, for the appointment of Indians to the Executive Councils so that they might press acceptance of the popular views upon their colleagues. This experiment has been tried also for a sufficiently long time only to prove its futility; and not only the Congress and popular leaders of the country but all thinking men in India have come to the conclusion that the existing machinery is insufficient for the peaceful and good governance of the country.



The Reforms Report, therefore, is not only quite right in dwelling upon the political consciousness of the people quickened by the recent events in Europe which demand great political reforms, but it has minimised very much the intensity and volume of that political consciousness. The Report is also quite right in pointing out the growing discontent and the widening gulf between the officials and the non-officials due to the inutility of the Legislative Councils. I think, however, that it has not brought out sufficiently that this is due to the official attitude. I have not thought it necessary to dwell upon the other reason which has been assigned for reform that it is extremely difficult, if not impossible, to initiate or to carry out any progressive policy under the present constitution of the Governments in India which has been explained in detail in the Report, as this is generally admitted to be the case.

12 I have referred to the reasons for reform which have been advanced in the Report and they make out a case for a great change, but in the opinion of the political leaders reform is imperative for another reason. It is required in the interests of peace, order and good government, *i.e.*, efficient government according to English ideal. The present system is proved inefficient. The plague disturbances in the Bombay Presidency would not have been allowed to take place under any demo-



cratic or popular government. The Tinnevelly riots and the murder of Mr. Ashe in the Madras Presidency were due to the latter's interference with Chidambaram Pillai's efforts to improve the lot of the millhands and with the Swadeshi Steam Navigation Company. This again would not have been possible under the ordinary conditions of good government. The occurrences in East Bengal which were the immediate cause of seditions and revolutionary movements also would have been practically impossible under a popular government. The Punjab unrest in 1907 had its origin in a legislative measure which was voted by the Imperial Government on account of the opposition of the sepoys and the military classes. The bills now before the Legislative Council to deprive a person of the protection of the ordinary courts of law and of the safeguards which, in civilized countries, have been found necessary to protect the innocent and to place personal liberty, freedom of the press and speech under the control of the executive, is proof of the necessity of radical reform of a system responsible for a situation which has in the opinion of Government rendered such legislation necessary.

The troubles subsequent upon the division of society by races, castes and creeds, far from being any impediment in the way of reform, calls imperatively for great political reforms; and there is very good reason to believe that if the leaders of the various

communities are left to compose the differences themselves, such conflicts will be far rarer, if they will not entirely disappear.

Great constitutional reforms are also essential in the interests of the masses of this country. The educated classes have failed in their endeavours to bring about any substantial amelioration in their condition. Not only have the Government not taken the necessary steps, but they have not supported the efforts of the educated classes.

Further, the various reforms that are long overdue also call for a change in the constitution that would render their realization probable. Promises made as regards the admission of Indians into the public services without racial distinctions have not been kept. Reforms in the land revenue administration which are indispensable were promised by the Government and the promise has been withdrawn. The separation of judicial and executive functions was promised by the Government of India. It has not yet been effected. The orders of Lord Ripon and of Lord Morley about local self-government have been practically disregarded. The wishes of the King-Emperor as regards education have not been carried out. Steps necessary for the revival of industries have not been taken. In all these we have now passed beyond the stage of promise and without actual performance. No weight would be given to our declarations.

It is under these conditions that the Congress and the Muslim League and the non-official representatives of the Legislative Council formulated their demands for representative Legislative Councils, for responsible government by the subordination of the executive to such Councils and for a far larger infusion of the Indian element into the Executive Councils so that the latter might not be in a position to entirely disregard the popular demand, and it was in reply to this demand that the British Government have promised self-government by instalments, substantial steps being taken at once to carry out that promise.

Thus, it is not true that the reforms advocated will result in the transference of powers to persons who are not interested in the welfare of the masses ; and it is also quite feasible to transfer power to the masses themselves. The demand for reform is universal and such reforms will only result in the application of the British standards and ideals to the Governments in India. With reference to the official view, that they best understand and protect the interest of the masses and that the transfer of power to the educated classes may result to the detriment of the masses, I would draw attention to the recent events in Champaran and Kaira, see appendix (A). They are also instructive for other reasons.

Bearing all this in mind, I proceed to consider the modification suggested.

### TRANSFERRED DEPARTMENT

13. First, to deal with the "transferred" subjects, *i e.*, the subjects which are presumed to be under the control of the Ministers and the Legislative Council. According to the Reforms Report, though a Governor does not occupy from the outset the position of a purely constitutional Governor he is to refuse his assent only when the consequence of acquiescence would clearly be serious. I am not sure whether this is accepted by my colleagues (para. 101). If it is not and if they contemplate any further interference on the part of the Governor, I am unable to agree with them. The new proposals which they have made seem to contemplate such interference. I have no doubt it will be admitted that the Ministers and the Councils will not be able to carry on the administration with any fair degree of success unless they have a loyal service or services which in their opinion are competent to carry out the duties which are entrusted to them. Of course at the commencement as rightly pointed out in the Report, to require Ministers to inaugurate their services for their own departments, would doom the experiment to failure; and the Reform Report therefore places the machinery of the public service, as it exists to-day, at the

disposal of Ministers, adding also that adequate protection must be given to those services. The Government of India now give adequate protection to those services by various provisions to which it is unnecessary here to draw attention. But instead of only placing the public service at the disposal of the Ministers when the new scheme is inaugurated, they would go further and would compel the Minister to accept such officials to carry out their policy. The consequence would be that though the Minister may be saddled with an officer who is so opposed to the opinions of the Minister and of the Legislative Council that he will not loyally carry out the policy determined upon by them, the Minister is to be compelled to retain him although both the Governor and the Minister may want to get rid of him and appoint another person who they think would properly carry it out. Thus, for instance, if the Governor and the Minister want to appoint a sanitary expert from England for carrying out certain sanitary arrangements, they are not to have that liberty, but they will be compelled to appoint a man in the ordinary services. Similarly, if the Governor and the Minister wish to appoint an agricultural expert as the head of certain settlement or agricultural operation in preference to the Civil Service officer who will be ordinarily appointed to it under the rules of the service, they are not to have that right, but they will be compelled to accept

a person who would, in the ordinary course, occupy that position.

We have provided that the appointments of these officers can only be made by or with the sanction of the Secretary of State and subject to any rules that may be made by him. I would, therefore, propose that it should be open to a minister to appoint with the sanction of the Secretary of State, or request the Secretary of State to appoint any person outside the service for any post under him. The intervention of the Secretary of State should be a sufficient safeguard in such cases.

14. This question becomes of very great importance when we regard their relations with the Governor. According to my colleagues the permanent heads of department and the Secretaries under a minister should have access to the Governor to bring to his notice any case which they consider that the Governor should see. In fact, the secretary or the permanent head of a department would be entitled to appeal to the Governor against any decision of the minister overruling him. My colleagues also expect that the Governor would direct all cases of particular types and all cases of major importance to be brought to him as a regular practice. The result would naturally be to weaken considerably the position of the minister in relation to his subordinates. In fact, he might be reduced to a figure-head by the Governor and



the Secretary. I do not think that this could have been contemplated by the authors of the Reforms Report, and I do not think it right. No secretary or head of a department should have any access to the Governor for this purpose. No one should come between him and the minister. It is one thing for a Governor to tell the member himself that he would like to be consulted on cases of a certain type, and it is a very different thing to allow a secretary to bring to him such cases for decision in appeal against a minister.

15. There is another drastic change proposed by my colleagues. They are of opinion that if any proposal contained in a bill dealing with transferred subjects affects the peace, tranquility etc., of a province, or the interests of a specified reserved subject, the Governor should have a right to refer that bill to a grand committee. In actual practice this might practically eliminate the control of the Legislative Council over even the transferred subjects; because almost all bills referring to transferred subjects may be brought by a Governor, whose order according to my colleagues should not be open to appeal under one or other of these conditions. To take a concrete instance: If a minister wishes to introduce any measure dealing with sanitation or education, the Governor might refer it to a grand committee on the ground that its alleged unpopularity might possibly provoke disorder. We may,



therefore, assume that the Legislative Councils will in law be as impotent in future in transferred departments as hitherto, and as they will be in the reserved departments in the future. This is opposed to the Reforms Report and I am unable to accept it.

16. Further my colleagues would give power to the Governor and the Secretary of State in certain events to transfer all departments from the minister to the Executive Council. It will be noticed that the Governor has the power to dismiss the minister, he has the power to dissolve the Legislative Council: but even after this if he finds the Legislative Councils and all ministers opposed to him they would give this right of transfer of every department from the minister presuming that the Governor must be right and all the Councils wrong. They want this as the only possible safeguard against a deadlock, which might be fatal to the administration of a province, as a deterrent to factious and irresponsible action; this view is based upon a gratuitous assumption that actions of the Legislative Council and the minister will always be factious and irresponsible when such actions are opposed to the opinion of the Governor.

I do not think it should be in the power of a Governor or the Secretary of State who will be only his mouthpiece—to strike thus at the root of

the reform scheme. This proposal is entirely opposed both to the letter and spirit of the Reform Report, which views such proposals with disfavour ; the Report would not give such power over the legislature to any executive government and would allow the same, if at all, only after an open enquiry by an impartial parliamentary commission. If two consecutive Legislative Councils, composed as they would be under the scheme, came to conclusions directly opposed to that of the Governor, the presumption, in my opinion, would be exceedingly strong that the Governor was wrong and their views should be given effect to. To give, in such circumstances, this power is to go against the principles of constitutional government and will be taken as indicative of a spirit incompatible with constitutional government. For any sudden emergencies, there is the power of ordinances if necessary, by the Viceroy. I would not, therefore, allow this power more especially when it is proposed to confer upon the Government of India certain powers of interference, the exercise of which would adequately meet all possible contingencies.

17. It is proposed to give the Government of India the power of interference even in the case of transferred subjects for the following purposes:—

(i) to safeguard the administration of Government of India subjects ;

(ii) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province ;

(iii) to safeguard the public services to an extent which will be further determined subsequently ;

(iv) to decide questions which affect more than one province."

18. Again, my colleagues propose that if the decision taken in the reserved department requires, in the opinion of the Governor, certain action in the transferred department which the minister objects to take, the Governor must be armed with the power to issue orders in the transferred department. It makes no difference in this view that the Governor can pass an order in similar circumstances in the reserved department. The result of this will be further to curtail the powers of the minister.

19. The new proposal about the allocation of the resources available for the purposes of the Executive Council and those available for the purposes of ministers completes the subordination of the ministers to the Executive Council. The main sources of revenues, like the land revenue, in the provinces, will be under the control of the Executive Council while all the departments of expenditure,

like education, local self-government, including public health and public works, will be under the control of the ministers. These are the departments which stand in need of development. In normal circumstances therefore the revenue which they require will have to be made good to them by the Executive Council. This places the ministers practically under the control of the Executive Council. The minister or ministers will not be able to raise money even by taxation without the consent of the Governor, and, as I have already pointed out, it will almost invariably be the case that the bill is one which the Governor would be entitled to refer to the committee for legislation. According to my colleagues their proposal will give the ministers a direct interest in improving the sources of revenue which are placed in their charge, but the sources of revenue which are capable of expansion will be, according to the proposals, placed not in their charge, but in the charge of the Executive Council. There will be therefore no resources to be developed except perhaps excise revenue which it should not be our policy to regard as a source of growing revenue. Further I do not accept this theory that all inducement must be held out to a department to increase its revenue for its own benefit. My colleagues further state that the official government should not have the power to refuse funds for the work of the

popular half of the government, but according to the proposals the minister will never have that power as the final decision for taxation rests with the Governor and not with the minister. I do not accept the view which seems to result from the proposals of my colleagues that we should punish the people of the country for any dereliction of duty on the part of the minister or the Executive Council.

20. The cumulative effect of all these provisions is to place the minister and the Legislative Council in relation to transferred departments not only in a position of no real responsibility, but virtually in subordination to the Executive Council. The scheme, therefore, of my colleagues is directly against the announcement of the 20th August, as it means altogether a negation of responsibility, and should not therefore be accepted. The departments of which the minister will be placed in charge are bound to suffer under the proposed arrangement; and I have shown in my review of the present situation that they are not likely to receive any favourable treatment at the hands of the Executive Council.

In so far as this part of the scheme is concerned, my criticism therefore is that while the policy decided upon by His Majesty's Government requires definite responsibility to be laid upon the ministers for certain acts of the government, the

Secretary of State and the Viceroy would allow such responsibility only under the general supervision of the Governor; my colleagues would practically get rid of all such responsibility by converting the minister into a subordinate executive officer, and the real Legislative Council into a subordinate body—subordinate to the Governor and the Executive Council, the latter being without any responsibility for the consequences,—though my colleagues in terms disclaim any intention to create an inferior government under the superior provincial Government.

#### “RESERVED” SUBJECTS.

21. I shall now take up the question of “reserved” subjects. I have already referred to the provisions of the scheme relating to reserved subjects, which show the nature and the influence or power which might be exercised by the minister and the Legislative Councils (see paragraph 6). The subject is so very important that even at the risk of prolixity or repetition I take the liberty of referring to them again for the purpose of explaining the objections that I advance to the proposals which are now being formulated by my colleagues.

According to the Reforms Report, no taxation, when it becomes necessary even in the interests of reserved subjects, can be imposed in a province without the consent of the minister who is supposed



to represent the Legislative Council. The first essential, therefore, of a popular government is thereby secured. Again, the entire budget, both for the transferred subjects and for the reserved subjects, is to be settled by the executive government as a whole. The minister has, thus, a powerful voice in the settlement of the budget, he is not a mere outsider tendering advice which may be acted upon or not according to the will of the Executive Council, because unless he is in a position to justify the budget proposals, even as regards the reserved subjects, he will not either undertake new legislation or be able to persuade the Legislative Council. At the same time he will not have a controlling voice so far as reserved subjects are concerned, because a final decision is to be taken by the Executive Council alone. Further more, even as to reserved subjects, in cases of any disputes between the minister and the Executive Council with reference to any provision of the budget, the question has to be decided by the Governor, who is also responsible for transferred subjects and who is to act in view of the fact that taxation, if any, can be undertaken only with the consent of the minister. The influence of the minister, in these circumstances, will act on the reserved subjects in the direction of thrift and retrenchment. Similarly, the minister will have the experience and advice of the members of the Executive Council with reference to his transferred subject



and he will have to pay serious regard at that advice in determining the relative proportions to be divided among the transferred and reserved subjects; and the influence of the Executive Council members will therefore be exercised in the direction of thrift and expenditure so far as transferred subjects are concerned. Then, again, this is a very important provision; the entire budget has to be submitted to the Legislative Council, whose resolutions on the budget will be binding even so far as the reserved subjects are concerned, unless the Governor restores the budget on specific grounds (paragraphs 221, 222, 256 and 257).

The proposals that I have referred to above give the minister and the Legislative Councils very considerable influence in the most important question of finance and everything that depends on it concerning the reserved subjects. They are satisfactory and based on sound principles. All this influence of power proposed to be bestowed upon them in the Reforms Report will be eliminated if modifications suggested by my colleagues are accepted.

#### MODIFICATIONS PROPOSED BY THE INDIAN GOVERNMENT.

22. They propose to omit the very important provision that the resolutions of the Legislative

Council on the entire budget which is to be submitted to them will be binding on the government unless the Governor exercises his special right of restoring the provision in the budget on any specific ground. The Government of India now would treat every budget resolution only as a recommendation. To my mind, this is a grave departure from the scheme of the Reforms Report. It is said that a Governor would find himself in a very inconvenient position if he had to overrule a Legislative Council, and a continuance of that course if the Legislative Council persists year after year in carrying a resolution with reference to any particular measure would be almost impossible. The very object of the provision is that in the absence of any strong reasons to the contrary the opinion of the Legislative Council should prevail; and I think his departure from the scheme outlined in the Reforms Report detracts considerably from its value.

23. My Hon'ble colleagues have followed this up by further modifications which practically get rid of all popular and Indian influence.

Instead of one joint budget and one joint purse for the whole government they will create separate purses for ministers and Executive Council members, respectively, with the result that the budget for transferred subjects will be settled only by the Governor and the minister, and the budget for reserved, subjects will be settled only by

the Governor and the other members of the Executive Council. Taxation for the administration of transferred subjects will be left in the hands of the ministers; and similarly, taxation for reserved subjects will be left entirely in the hands of the Executive Council members. The rule that the resolutions are binding unless disallowed or vetoed by the Governor, is not accepted by them. The Council's resolutions are to have effect only as recommendations.

The result of all this is that so far as the reserved subjects are concerned, neither the minister nor the Council is to have any real voice in the settlement of the budget. This is avowed to be the real purpose of the new proposals. Real popular influence in the settlement of the budget is, therefore, entirely gone. The minister of popular assembly is not to have the final voice in taxation as the Executive Council member alone presents the bill for taxation and if the legislative assembly does not pass it, it will be open to the Governor to get it passed over their heads by grand committees or otherwise. The influence of the minister on reserved subjects in the direction of thrift expenditure also is removed. I think it substantially reduces the value of the Reforms Scheme. I am therefore unable to accept any of these modifications in the original proposals which are now suggested.

24. The advantages of the system are said to be that the ministers as well as the Executive Council will know what their available resources are, what opening balance will be at their credit and consequently what range of expenditure they may provide for and at what point they must face extra taxation. It will secure to each department the benefit of any improvements which can be expected in the revenue departments. It will therefore be an inducement to expand and develop the sources of revenue as the fruits of their labours will not be shared by the other departments. It is also said that each may also borrow for its own purposes. Assuming that there are administrative conveniences in the separation of revenues, these administrative conveniences should not be allowed to weigh for a moment against the outstanding fact that you thereby get rid of the popular influence altogether on the finances of the reserved departments. To this great objection I find no answer forthcoming except that it is desirable that all the reserved subjects should be removed entirely from the influences of the ministers and of the Legislative Council. I cannot agree to this. On the other side there is the objection advanced by the Congress that under the arrangement proposed in the Reforms Report the transferred subjects will only get "the crumbs from the table," and the unwelcome task of taxation is always imposed upon the minister, even

though such taxation might have been necessitated by the needs of the reserved subjects. This argument has been availed of by my colleagues in order to support the scheme of a separate purse. It would be extraordinary if an argument intended to strengthen Indian influence should lead to its elimination. I have already referred to the safeguards provided by the scheme. No taxation can be imposed without the consent of the minister who can earmark the proceeds of taxation. No responsible member of an Executive Council is therefore likely to press the claims of the reserved subjects too far, and in particular in view of the enquiry by a commission after a few years; and even if he does so, the final decision rests with the Governor, who is interested in the administration both of the transferred and of the other subjects. Apart from all this, the Legislative Council will review the budget and a responsible Governor has to restore the provision of the budget in favour of the reserved subjects by overruling them. It is improbable, therefore, that the transferred subjects will suffer, and I feel strongly that this argument should not weigh in favour of a separate purse, which will operate far more against popular influence than the existing provision. The apprehension expressed by Indian politicians is really due to the phraseology in the report. To remove the same instead of stating that the supply of the reserved subjects will

have priority over that of the transferred subjects. I would simply say that the executive government as a whole will apportion the revenue between the transferred and the reserved subjects. If the ministers and the Council members do not agree, the Governor has the right to decide. The effect is absolutely the same, as in the scheme the supply for the reserved subjects can be determined only by the Governor if the minister does not agree. The proposal of my colleagues that the consent of the Governor is necessary to taxation is a part of the scheme in the Reforms Report whenever there are differences of opinion. After apportionment of the revenue, the necessity of taxation might be considered, the indispensable condition being that provided for in the Report—that there should be no taxation without the consent of the minister. As to who should introduce the Bill into the Council is a matter which might be left to the Governor. Ordinarily, the member whose department needs the fresh taxation proceeds will no doubt introduce the Bill.

25. I have assumed that there are administrative conveniences in this separation of revenue. It is admitted by my colleagues that the proposals in the Reforms Report have not met with any criticism in India. It will not be right in the circumstances therefore to make any alterations. They point out that any substantial increase in reserved expenditure will be at the mercy of the ministers, although



ministers may have no responsibility for the consequences of refusing the budget provision, but this is an impossible contingency, as in the case of any dispute between the ministers and the Executive Council the decision is left to the Governor. In order to support their argument they have to assume that the Governor under his exceptional powers might insist on expenditure on reserved subjects being provided for in the budget leaving minister with inadequate funds for the transferred subjects. We are not warranted in making any such assumption, and if the Governor is inclined to exercise his power in that direction he can do it even otherwise. What is to happen if the Governor under the powers of supervision and control which he has over the minister—powers which my colleagues desire largely increased—were so cut down the funds available for the minister even if they were not wanted for reserved subjects. Such assumptions would render the working of any constitution an impossibility.

Further, the income derived from the sources of revenue which form part of the Reserved list will, after providing for the administration of those subject and of Law, Justice and Police, leave a large surplus which, with the normal growth of revenue, will be adequate to meet the growing expenditure. I doubt whether any taxation or borrowing for the needs of those Department has been found necessary

in the past or will be required in the future. The annual discussion my colleagues would avoid by settlement of revenue for a period of time. This will interfere with legitimate exercise of their power over finance by the Legislative Council; such settlement may lead to taxation and borrowing when otherwise it would be unnecessary, and lead to unnecessary friction and criticism divorced from responsibility. Generally I have to state that my colleagues have throughout their report made assumptions which are calculated to show the apparent necessity of a stringent control over the ministers. All the difficulties suggested by my colleagues presuppose non-interference under any conditions on the part of the Governor with the minister and an absence of any provision enabling the Governor to decide in cases of dispute between the minister and the members of the Executive Council. It appears to me that the provisions in the Reforms Report scheme form a sufficient answer to all the objections advanced.

26. My colleagues are also of opinion that one more official, who will be ordinarily a civilian, should be appointed to the Executive Council. In the Report the transference of some of the functions of government to ministers was held to make it "impossible" to retain an Executive Council of more than two members, one of whom was to be a European and the other an

Indian. And this reduction of the European element from two to one was regarded as equivalent to an increase in the Indian element. My Hon'ble colleagues, however, support their proposal on the ground that the Governor—a new man from England—will be left with only one European adviser as a member of his Council. And it is also said that work can be found for one more member. It does not appear that the conclusion that was arrived at, at the time the Report was framed that there will not be sufficient work for three members of the Executive Council, is unfounded. Before 1911 there were only two members. At present there are three. A good portion of their work will now be transferred to the ministers. I am satisfied that there is no reason, on the score of work for the appointment of one more member. A stronger objection is that involved in the second reason given in the Report. It will materially reduce the relative strength of the Indian element in the Executive Council. An Indian member will have no chance as against two English official members. For consultation and advice, the Secretary in the Department, who will or may be present, will be available. Neither the adlati nor any additional member is required. In reserved subjects therefore, with the modifications proposed by my colleagues with reference to budget and taxation, this addition of one member will practically get rid of the influence or

power accorded to the Indians or representative councils in the Reforms Report. In the interests of good government, is it advisable or necessary to depart from the scheme?

27. First, let us take the budget and consider the restrictions on the provincial governments imposed by the general standing orders and the Secretary of State. The sanction of the Secretary of State is required to the appointment of any English officer drawing a certain pay; to create any new post which would ordinarily be filled by a gazetted English officer; to create any new post over a certain monthly pay; to give any honorariums exceeding, I believe, a thousand rupees; to make any grant of land except under very special conditions. The right to purchase motor cars was so much abused that now they cannot be purchased for public business without the sanction of the Secretary of State. These are only some of the orders: there are many more of the same kind. All these indicate not only the nature of the restrictions that are imposed upon provincial governments, but also the close supervision which is deemed necessary for the exercise of their powers. There is no reason to think that no such restrictions would be necessary in the future. We propose by these schemes to give the local Governments enhanced powers of appointment — powers by which they may appoint officers drawing very high

salaries, over even a thousand rupees. We propose now to give them powers to carry out schemes without references to the Government of India or the Secretary of State, which involve lakhs of rupees. If it was necessary for the Government of India or the Secretary of State to exercise this close supervision over the local Governments in the interests of the taxpayer, that supervision can only be relaxed on the ground of increasing popular control. Lord Curzon has remarked, and so also I believe, almost every administrator who had to consider this question, on the growing tendency in every department to increase the emoluments and to increase the establishment. Far, therefore, from getting rid of the control over the budget by the Legislative Council, it appears to me that the relaxation by the Government of India and the Secretary of State of their power of control, and the additional powers which it is proposed to confer upon the local Governments require not only the powers conferred upon the minister and the Legislative Council by the Reforms Reports, but additional powers. Restrictions were placed upon the powers of the Governments in India in the appointments of Englishmen because it was felt that otherwise the Indians would have no chance at all.

Similarly, take the questions of industrial expansion, the separation of judicial and executive functions, increase of taxation by recurring settle-

ments without the consent of the Legislative Councils. All these are really financial questions, and, under the schemes proposed in the Reforms Report, the popular assembly will have considerable influence in shaping the policy of the Government with reference to all these. The proposals of the Government of India will leave the Legislative Councils and the minister without any such voice in the settlement of these very great questions. It is therefore a considerable departure from the Reforms Report. My colleagues, I am afraid, do not realize the strength of the feeling for reform due to questions referring to these matters (a) They ignore altogether the very important considerations which arise therefrom. There is no split in the Congress Party or, so far as I can see, among Indians on the broad lines of policy that should be pursued on the matters above referred to. The addresses presented to the Secretary of State and the Viceroy draw prominent attention to these grievances.

I cannot help thinking, in these circumstances, that if these restrictions are removed we may expect great waste of public funds in the future and great and alarming discontent. I would, therefore, as already stated as against the new proposals of my colleagues, not only support the scheme in the Reforms Report so far as taxation and budget are concerned, but would go a little further in the same



direction by enacting that the Governor's power of restoring any provisions in the budget in the interests of the reserved subjects should not be exercised so as to confer any benefits on the services which they would not obtain in the ordinary courses, and the Governor should not be allowed without the sanction of the Secretary of State to restore any provisions in the interests of reserved subjects with reference to any matter for which the sanction of the Secretary of State is now required. It should be remembered that in the case of transferred subjects the Council has got the powers of removing the minister, and a corresponding power does not exist in the case of the reserved subjects.

28. Leaving now the question of the budget, let me take the equally important question of peace and order. If sedition had its origin in Bombay, it would be noticed that this was due to the harsh administration of the plague regulations by a Collector, which would have been impossible if the Indian element was powerful in the government of the country. Similarly the course of maladministration by the Government of Eastern Bengal, which was responsible for the growth of real Bengal sedition, would also have been practically difficult. Under the law which we have recently passed and under certain regulations which were passed at the commencement of the last century to meet certain exceptional

classes of cases, it would be open to an executive government in a province to deprive a man of his liberty and of his freedom of speech without the orders of the magistrate or any other judicial tribunal. The press may also be deprived of its freedom by executive action, the ordinary courts being deprived of their jurisdiction. The Governor of a province has the power of depriving a person who attacks him of his liberty of person and of his property without affording him a public opportunity of proving his allegations before the ordinary tribunals of the country. Under this law no Indian paper would venture to indulge in criticisms distasteful to the head of a province. Any agitation against the civil service or bureaucratic form of government would scarcely be possible under the civilian head of a province. The Home Rule agitation, or in fact any constitutional agitation, may be suppressed without the interference of a judicial tribunal solely at the instance of an executive government. In these circumstances it seems to me to be imperative that the Indian element and the popular element should be powerful in the government of a province. Otherwise we will certainly perpetuate all those evils due to the inutility of the Councils which as forcibly pointed out in the Report are responsible for the widening gulf between officials and non-officials

## GRAND COMMITTEE.

29. It is proposed to constitute grand committees out of the members of the Legislative Councils in order to legislate on "reserved" subjects when the Governor considers such legislation is essential, to the discharge of his responsibility for the peace or tranquility of the province, or any part thereof, or for the discharge of his responsibility for the reserved "subjects." So far as the "reserved" subjects are concerned, it is said that such exceptional means of legislation are required on account of the poverty, ignorance and helplessness of the great majority of the population, who cannot for that reason be left to the mercies of a Legislative Council who will not adequately protect their interests. Further, it is said that the masses themselves will not take any part in political life, and therefore all such questions concerning the revenue, those arising from the relations of the landlord and tenant must be retained by the executive government. It is also said that such power is necessary in order to defend British commercial interests and other questions concerning industries, etc. All great questions that arise between classes and creeds also should not be left to the ordinary Legislative Councils. I have pointed out already that it may well be doubted whether in the interests of the good government of the country such exceptional powers are necessary. Our elect-

orates are becoming wider ; all kinds of interests and views divergent among themselves are going to be represented ; and if, in these circumstances, the government cannot secure any majority, the probabilities of their being in error are great. The grand committee as constituted is obviously intended as a check on a popular assembly, and is in itself therefore an undesirable institution. It creates an undesirable antagonism between a local Executive and a local Legislative Council, and if there are other means of attaining the same object in view it is undesirable to retain it. I think the safeguard of the Imperial Legislative Council for all affirmative legislation and the powers of veto possessed by the Governor and the Viceroy to negative any Act which is passed by the local Legislative Council, and the power of ordinance for urgent occasions would be amply sufficient. This would secure a careful consideration of a measure rejected by the local Legislative Council before its introduction into the Imperial Legislative Council.

The objections to legislation by the Government of India are stated in paragraph 248 of the Reforms Report. The first objection advanced is that such legislation will strike at the root principle of provincial autonomy, according to which the provincial governments must be autonomous in their own legislative fields.

Provincial autonomy was promised by Lord Hardinge's Delhi Despatch of 1911 for the purpose of increasing popular control. We therefore do not want the so-called provincial autonomy if it is intended thereby to increase the power of the executive government over the Legislative Council. On the other hand, it is a principle recognised by the Reforms Report that the control now exercised by the Government of India and by the Secretary of State over subordinate governments can be relaxed only in proportion to increasing popular control. It is quite right, therefore, that where a provincial Legislative Council has passed a measure, the Imperial Government or the Secretary of State should interfere as little as possible but that the local executive government should be able to get passed through a grand committee, a measure which has been rejected by the Legislative Council, goes against all these principles. There is in that case no question of real provincial autonomy. It must be borne in mind that the grand committee though technically a part of the legislature is brought into existence and will always be utilized to register the decrees of the executive government and may, therefore be regarded as its agent for enacting measures rejected by the Legislative Council. The provincial government becomes independent both of the Provincial Legislative Council and of the Imperial Government; whereas,

the proposal I put forward retains the power of the Imperial Government ; for it can hardly be doubted that legislation by a grand committee will practically put an end to legislation in the Imperial Council.

The other objection that is advanced that the Government of India would be very reluctant to undertake responsibility by legislation is, in my opinion, rather a recommendation than an objection as a Legislative Council should be overruled only in very exceptional cases. The Government of India cannot be accused " of ignorance of local conditions " as they will be acting only on the advice of the local Governments and after full consideration of the discussions in the local Legislative Council.

Disregard of provincial wishes is a common factor whether the legislation is by the local executive government or by the Imperial Legislative Council. The Imperial Government in such a case would be an arbitrator between the local executive government and its Legislative Council. The "ungrateful" task has to be undertaken by somebody, and it is much better that it should be undertaken by a government far removed from local excitement. The reason that such legislation is unpopular and controversial is only an argument for subjecting it to examination by a government which is not subject to local temptations of prestige, power and increased revenue. The Imperial Government will be able



to attach due weight to the circumstances that may be urged by the local Government and the arguments which induced the local Legislative Council to reject the measure. I also disagree with the proposal to reduce the elected element in the Grand Committee.

30. We are all agreed that the heads of provinces should, in future, be Governors instead of Lieutenant-Governors (paragraph 218), but my colleagues are of opinion that the existing practice of appointing only civilians in accordance with the rule which requires twelve years' service in India for a Lieutenant-Governorship must be or will be followed for a long time to come. I regret I cannot share in this view. The primary consideration that should weigh with the Secretary of State in making the appointment is the fitness of the person to carry out the duties not as hitherto of an autocratic head of a province but of a constitutional ruler. The Civil Service generally have shown their hostility to the proposed reforms. They have expressed their strong opinion of the unfitness of Indians to hold high appointments or to carry out the duties which will devolve upon them as Parliamentary leaders. There will be many persons therefore among them who are not likely to work in harmony with Indians or to view with sympathy their political progress, which must curtail the privileges hitherto enjoyed by their own service.

The Secretary of State should certainly therefore take this question into consideration when he makes the appointment. It may indeed be questioned whether the life spent in the Indian Civil Service is calculated, except in rare cases, to stimulate that part of political talent which consists in the study and guidance of political opinion, or in the framing of the large legislative proposals which are from time to time needed in actively thinking political communities. (1) This fact also will have to be borne in mind. Those civilians who are in sympathy with Indian progress or who can be trusted to work smoothly with the political machinery of the future under the altered conditions and who are not prejudiced by the feelings of hostility to the proposed reforms evidenced by many of them may be appointed as heads of provinces. I do not think, therefore, that the confident expression of opinion by my colleagues as to continuance of the practice hitherto existing is justified.

31. The same question arises with reference to the qualifications of a member of the Executive Council. It is intended, according to the Reforms Report, that one member should be an Indian and the other an official with qualifications of 12 years' service under the Crown which is now required by law. I do not understand the Report to lay down

(1) Mr. H. A. L. Fisher : "The Empire and the Future."

that this should be retained as a statutory qualification, though no doubt in practice the qualification will be insisted upon. At present the appointment is in practice limited to the Civil Service. One can easily conceive cases where a Governor might require the presence in his Executive Council of a person of outstanding abilities in some particular line either in India or in England. There is no reason why the Secretary of State should be debarred from nominating him. My colleagues are of opinion that there must be a statutory provision that one member should be an Indian and that the other should have the existing qualification. I doubt whether this is necessary.

32. The only other point which I have to notice has reference to the right of a Legislative Council to make rules for its own conduct of business. Every Council ought to have such a right, and no reasons have been shown why we should insist upon the consent of the President. The rights and privileges of a President or of a Vice-President, in so far as they do not refer to the ordinary conduct of business, should not, of course, be interfered with.

#### THE GOVERNMENT OF INDIA.

33 The first question has reference to responsible government. I recognise that it has been laid down in the Report that there should be no responsibility in the Government of India as in provincial governments, that is to say,

that there should be no Indian minister responsible to the legislation. This can be defended only on the ground that many of the departments of administration have been transferred to the provincial governments, and that those retained by the Government of India are far too important to be handed over to responsible Indian ministers before the experiments have justified themselves in the provinces. These, of course, are subjects which concern peace and order and the good government of the country, foreign states, Army and Navy, and also questions in which the interests of England or her people are greatly involved. There are, however, questions which only concern the internal administration of the country and which have been recognised as fit for transfer to a minister and the Legislative Council. In all those cases, therefore, in which the Government of India retain a right to interfere with the transferred subjects, there should be no objection to introducing responsibility in the central government. Indeed responsible government seems to be necessary in order to carry out the principles indicated in the Report. It is proposed to allow powers of interference to the Government of India in the transferred departments of the provinces, for instance, to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province. It is also desired to retain in the

Government of India power to decide questions which affect more than one province. Ex hypothesi these are subjects which ordinarily should be dealt with by ministers in accordance with the will of the local legislature; and if it is proposed to remove these from the jurisdiction of the local minister and of the Legislative Council for reasons which have nothing to do with their capacity to deal with questions of that character, it is but reasonable that in the Government of India also the decision of such questions should be left to the legislature and an Indian minister. If necessary an Indian member of the Executive Council may be an Indian minister for this purpose. Supposing there are certain subjects which are not now transferred for temporary reasons and of which we contemplate transference in the course of three or four years, I cannot see any reason why in such cases also responsible government should not be introduced so far as such subjects are concerned. Responsible government in the provinces demands responsible government in the Government of India in the same subjects, as otherwise provincial responsibility will be diluted.

#### THE COUNCIL OF STATE.

34. The next important question refers to the Council of the State. I have very strong objections to the power given to the executive government to pass laws through the Council of

State without a previous discussion in the legislative assembly. The Governor-General can exercise his power of issuing ordinances which will operate for six months. If any discussion is necessary, he can introduce the Bill into the Legislative Council to ascertain the popular view. If it is a matter in which the Governor-General in Council has made up his mind, then, of course, a discussion is useless and unnecessary and an ordinance can at once be issued. Now with reference to the Council of State itself.

A Council of State as a second chamber representing interests properly represented in the Imperial Assembly, I understand, and I raise no objection to it. A Council of State for the purpose of securing delay and for greater deliberation of subjects also might be necessary, and I would not raise any objection to such a Council either but this Council, of State is constituted for neither of these purposes. Its avowed purpose is to carry out the will of the executive government when they cannot carry it out on account of the opposition of the legislative assembly. It is, in fact, an unreal Council. Rather than constitute such a Council, it is much better to lay on the Executive Council itself directly the obligation to pass the law. It will not then be exercised so frequently as it would now be with a State Council to give the measure that it passes an unreal appearance of popular support. It will



belittle the importance of the legislative assembly and thus create an antagonism between it and the State Council and the executive government.

There is another serious objection. It is undesirable to give the Executive Council unrestricted freedom of action in matters in which popular opinion is decidedly against it. Disastrous consequences have attended such freedom of action; and as long as the executive government have that power of action, they are bound in the discharge of their responsibility to act upon it if they take a view contrary to that of the legislature. Again, there are great questions of administrative reform which should be carried out and which have not been carried out on account of the opposition of the bureaucracy due to their apprehension of loss of prestige, etc. I have already referred to many of them already. There can be little doubt that a Council of State would check reform as in the past in all those directions. I think, therefore, that the Council of State as constituted will prove an obstruction. At the same time, I recognise that in the Reforms Report it has been laid down that in matters referred to above, there should be no responsibility to the legislature. A *via media* appears to be to direct that in all cases. Bills should first be submitted to the legislative assembly: and on their failure to pass such Bills, all the papers should be laid before the House of

Commons to whom the Select Committee would no doubt submit their report; and it is only after such sanction is obtained that further steps should be taken to proceed with the measure, either by the Executive Council or the Council of State.

Two further courses have been suggested: to confine the Governor-General's or Viceroy's power of certification to certain definite subjects or to curtail the power of certification to those Bills which have not been rejected by a certain percentage of the members of the Legislative Council.

I am clearly of opinion that the power of the Council of State, if it is not to be dropped, should be curtailed.

#### BUDGET.

35. It is now proposed to delegate larger powers to the Government of India. It is obvious that if hitherto the interference of the Secretary of State has been necessary in the interests of the Indian taxpayer, and that it has been necessary will appear from the various orders which restrict the Government of India's power of expenditure—then the Secretary of State should be allowed to forego the exercise of his own power only with the development of popular control: otherwise, there is no justification. That the powers hitherto exercised by the Secretary of State were necessary in the interests of the taxpayer will appear from an examination of the instances in

which such power has been exercised. It will also appear from a consideration of the rules themselves and the occasions and the reasons which led to the passing of such rules. It appears to me therefore that all resolutions on the budget by the legislative assembly should be given effect to in all those instances in which it would not now be within the competence of the Government of India to incur any outlay without the sanction of the Secretary of State; at any rate, if full effect is not to be given to it, the power to overrule the Legislative Council in that respect should not be given to the executive government in India but should rest only with the Secretary of State.

36. I do not agree with my colleagues in discarding the provision about appointing members of the assembly to positions analogous to that of Parliamentary Under-Secretary or the Standing Committees. At present, or under the new scheme, there is no means of non-official members acquiring that knowledge which can be acquired only by holding an office. The knowledge of Indians in the public services will not be available to non-officials for criticism of Government proposals. The ministers will have intimate knowledge only of the transferred departments and that also only in the provinces. These Under-Secretaryships and standing committees will enable the non-officials to acquire that information which they

would otherwise lack. In the earlier stages of discussion, it was generally admitted that these would form a good training ground for future administrators. It is undesirable, therefore, to drop them.

In the Imperial Council also, as in the Provincial Councils, I think it should be left to the Council to frame their own rules.

37. If there is any demand in which the associations who have addressed the Secretary of State and the Viceroy and all classes are unanimous, it is in the request they make that half the members of the Executive Councils, both Provincial and Imperial, should be Indians. The Congress and the Moslem League as well as the Sikhs and the non-Brahmin classes of Madras want it. The reasons are obvious. Everybody feels that without the infusion of an adequate Indian element into the Executive Councils, the reforms that are essential for the better government of the country will not be carried out. Again, there are various questions, particularly those affecting finance that are settled by the Government of India and by the Secretary of State in consultation with one another which require a strong Indian element in the Executive Council. In all those questions, without adequate Indian influence the Government of India will easily yield to the Secretary of State. Various influences will act upon the Government of India which require adequate Indian influence to counteract them.

Indian influence is also required to prevent the Executive Government of India from being unduly autocratic or unsympathetic towards popular movements. I would, therefore, propose the addition of one more Indian member to the two members proposed by the Government of India. If this is not accepted, I would suggest the appointment of an Indian minister to exercise the Government of India control over the transferred departments in the provinces. He may be called in for consultation but not for decision.

C. SANKARAN NAIR.

Delhi, 5th March, 1919.

## APPENDIX A.

### CHAMPARAN RYOTS CASE.

The relations between the Indigo planters and the ryots have long been unsatisfactory. There were disturbances. The Government deputed Mr. Gourlay to inquire into these relations. His report is believed to be favourable to the ryots and though repeated requests were made for its publication it was always refused. The Government however, entered into negotiations with the planters with the result that the claims of the planters were substantially recognised, and certain arrangements were made as to the exercise of their rights. The Government were of opinion that the ryots had no reason to be dissatisfied and that they were really satisfied. In March 1913, however, a member of the Bihar Legislative Council asked for a thorough inquiry by commission or otherwise. The Government gave the reply that the matter was one for settlement by the local officers and the impending settlement operations. For two years nothing was practically done. In January 1915, the question was again raised in the Council when the Government stated that the local authorities has been asked for information and report. In April 1915 a Committee of inquiry was again asked for in the



Legislative Council. The Government replied that the Settlement Officers were in every respect a better agency for inquiries than a Committee. In 1915 nothing was apparently done. So too in 1916 and the first half of 1917. The Indian National Congress then took up the matter and Mr. Gandhi went to Champaran to make a full inquiry. Mr. Gandhi sought the co-operation of the planters and the District officials in making the inquiry, which, he announced, he intended to make. The European Association, Bihar, in reply passed these resolutions:—

(1) That the presence of Mr. Gandhi in his self-imposed mission has been accompanied by unrest and crime.

(2) That his continued presence there is likely to be disastrous to the welfare of the Europeans in Champaran and the peace of the district.

(3) That they request the European Central Association in Calcutta to press on the absolute necessity, if they wish to maintain law and order in the Champaran district, to have Mr. Gandhi and his assistants removed from there at once and also that there is great fear of the lawlessness spreading to the neighbouring Districts.

Instead of co-operating, the District officials, apparently in obedience to these resolutions, ordered that Mr. Gandhi should leave the district at once. With an ordinary law-abiding Hindu this would have

sufficed and nothing more would have been heard of the matter, but Gandhi refused to leave the district, and he was prosecuted. He pleaded guilty. This was an unexpected challenge. The result was, he was not sentenced and the proceedings were dropped. After some hesitation, due to their early announcement, the Government then acceded to his demand for co-operation in the inquiry that he proposed to make and appointed a Committee which consisted of the representatives of the planters, certain officials, Gandhi, and an Indian zemindar. An arrangement satisfactory to Gandhi was entered into which was accepted by the Bihar Government, who, in the teeth of the strong opposition of the planters, proceeded to legislate. The planters protested to the last. The leading Anglo-Indian paper, a Government apologist, except when the interests of the Anglo-Indians are concerned, thus describes the result:—

“ We regret to find in those steps the worst of the faults that can be attributed to bureaucracy. Infirmity of purpose is the key-note throughout, and it manifest itself in the usual symptoms; a purposeless insistence for as long as possible on secretariat secrecy, and a refusal of requests for discussion when constitutionally put forward, followed by a prompt acceptance of the same requests when the party making them shows a disposition and ability to make things unpleasant for the

secretariat; a professed reliance on the opinions of local officers so long as that profession serves as an excuse for secrecy and delay, followed by abandonment of those opinions when they are found to be inconvenient; a too obvious desire to evade for as long as possible grasping the nettle of a controversial subject with the inevitable risk of injustice resulting according to the power of one side or the other to put pressure on Government." —*Pioneer*, 13th March 1918.)

It would be difficult to put the case more strongly against the bureaucracy. All peaceful agitation by the ryots failed to move the Government, for the obvious reason that the latter did not like to displease the planters and such agitation only succeeded when the Congress and Gandhi took it up and applied a pressure stronger than that of the planters. It was only then that justice was done. Gandhi, a Home Ruler, as against the Government, is now the idol of the people in that part of the province.

This was in a matter between the Anglo-Indian planters and the ryots. A later instance I propose to refer to, not only to illustrate the same lessons but also to show the condition of the ryots under the Government and the difficulties in their way.

## THE KAIRA CASE.

For a number of years the district of Kaira in the Bombay Presidency had suffered severely from failures of crops, partial famine, disease, and general agricultural distress. According to the Collector of the district, the crop in a normal year is valued at 12 annas and not 16 annas or more. Owing to excessive monsoon rains towards the end of 1917, the crops had failed. It is a feature of the Revenue rules that individual cases of hardship are not attended to, or, in other words, an individual is not exempted from payment for failure of crops in his holding only, but if there is a failure in the locality he might get relief with others. The ryots sent numerous petitions for suspension of collections of revenue signed by about 20,000 persons. Their prayer was that they were entitled to a suspension of revenue under the Revenue rules as the outturn of their crops was below 4 annas. They demanded that the Government should not force them to pay when they had not obtained from the land crops adequate to cover the revenue. These petitions were returned by the Government with the remark that they were not sent through the proper channel. They were afterwards submitted through the Collector. The District Association, after making enquiries, also petitioned the Government to stop the collection of revenue. They were told in reply that their intervention was ill judged and mischievous. Two

members of the Legislative Council—the Hon'ble Mr. Parekh and the Hon'ble Mr. Patel—also made detailed inquiries into the matter. They were satisfied of the justice of the complaint and petitioned the Collector, who assured them that he would make inquiries but the collection of revenue was not stopped. On account of these representations, there was, however, some relief granted, *i.e.*, a suspension to the extent of Rs. 1,75,000 where they had asked for 23,00,000 suspension. A deputation consisting of the Hon'ble Sir Dinshaw Wacha, the Hon'ble Mr. Parekh and the Hon'ble Mr. Patel waited on the Governor, who decided that the estimate of the outturn of the village servants was correct and refused therefore any further relief. An enquiry was undertaken by three members of the Servants of India Society, who found that the excessive rains during the monsoons had "rendered the poor people helpless, quite without an adequate supply of the staple food for 4 or 5 months" and that they were reduced to great destitution. They found the ryot's complaint was well-founded and brought matters to the notice of the Collector, the Commissioner, the Member of Council in charge, and of the Governor, on whose advice they met in conference—the Commissioner and the Collector with Mr. Gandhi. The Commissioner and the Collector promised some relief. Mr. Gandhi requested the Collector to make an inquiry which he

might be allowed to attend. This was refused. Mr. Gandhi, however finding that the evidence collected so far was not adequate to meet the official test, himself went about the district inquiring into the matter and collecting evidence. He also found that the complaint was well-founded. He made representations to the Collector and to the Governor, who replied to him on the 17th and 20th of March, respectively, declining to interfere as they were satisfied that justice had been done. Questions which were submitted to the Government to be put in the Legislative Council for the purpose of eliciting all information about agrarian distress in Kaira were disallowed. On the 23rd of March a resolution was moved in the Legislative Council asking the Government to appoint the Agricultural Department of Government to value the outturn of the crops, or to have the outturn of crops valued by some other agency other than the Revenue officials. On the opposition of Government the resolution was defeated. There was now nothing left to be done by way of ordinary constitutional agitation. A no-rent manifesto was then issued and the ryots went on strike on the 28th of March, taking a vow not to pay revenue. The Government rent or revenue was not paid. Properties, including household utensils, milch cows, were attached; orders of forfeiture of lands were issued by Government and all



possible steps were taken by the Revenue officials to enforce payment of revenue. On about the 12th or 13th of April, the Commissioner himself called a meeting of all the ryots and tried to impress upon them the necessity of complying with the Government orders, threatening them with dire consequences in default, and telling them not to heed their advisers, the Home Rulers, who themselves will not suffer in person for the consequences of non-payment of revenue. But the ryots persisted in their attempt. Meetings were held in various parts of India expressing their sympathy with the movement. The Government regarded it as a contest between themselves and the Home Rulers. Every form of pressure was applied, but the resistance of the people stiffened. The village headmen also turned against the Government. Their reply to Government pressure was :—

“ Whenever we feel that Government's orders conflict with what we regard as our duty to the people, we believe it to be our religious obligation to disobey Government orders . . . Before taking this extreme step we have left no stone unturned in politely reasoning with Government and even now we entreat them to spare us all the suffering, to respect the ryot's vow and to consider popular opinion to be not in any way less worthy of respect than its own.”

On the 25th of April the Government suspended the collection of revenue by ordering that only those who were in a position to pay the revenue need do so, and the rest might do it next year. The decision as to who were able and unable to pay the revenue was left to the ryots. But curiously enough, this order was not promulgated till the 3rd June. Till then the attachment of property and various other proceedings continued. The accused in all the prosecutions never made any defence; they made no appeal against their convictions, and one of them declared on his release after the order of the Collector, that he was a real Home Ruler. "he understood the principles there of and that he would for ever refuse to recognise laws that did not 'consist' with his conscience."

Under a revenue system where this is possible progress in material prosperity is, according to Indian politicians, impossible to the ryots. The other conclusions are obvious.

If this was the case under Lord Willingdon, we can imagine what might be the situation under less sympathetic rulers.

The first part of the paper is devoted to a general  
 discussion of the problem. It is shown that the  
 problem is equivalent to the problem of finding  
 the minimum of a certain function. This function  
 is defined as follows: Let  $f(x)$  be a function  
 defined on the interval  $[a, b]$ . Then the  
 minimum of  $f(x)$  on  $[a, b]$  is the value of  
 $f(x)$  at the point where  $f(x)$  is smallest.  
 This is the minimum value of  $f(x)$  on  $[a, b]$ .  
 The second part of the paper is devoted to a  
 detailed discussion of the problem. It is shown  
 that the minimum value of  $f(x)$  on  $[a, b]$  is  
 attained at the point where  $f(x)$  is smallest.  
 This is the minimum value of  $f(x)$  on  $[a, b]$ .  
 The third part of the paper is devoted to a  
 detailed discussion of the problem. It is shown  
 that the minimum value of  $f(x)$  on  $[a, b]$  is  
 attained at the point where  $f(x)$  is smallest.  
 This is the minimum value of  $f(x)$  on  $[a, b]$ .

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# Sir Sankaran Nair's

## MINUTE OF DISSENT.

*Sir Sankaran Nair has written the following Minute of Dissent to the Despath of the Government of India on the report :—*

### REFORMS

1. I have pointed out in my Minute of Dissent (paragraph 13) the hardship to a Minister who is compelled to accept subordinates who will not loyally co-operate with him. I have also pointed out (paragraph 14) the great objection to allowing those subordinates access to the Governor to contest the Minister's decisions. The Committee now suggest, differing from the Government of India on this point, that new permanent posts may be created which need not be added to the cadre of the Service as proposed by my Colleagues. This will enable the Minister, with the consent of the Secretary of State, to create new posts for duties to be performed under him. The fear that the Ministry may create such posts was the very reason that influenced my Colleagues to insist that these should be made a part of the cadre. The Committee also propose that where both reserved and transferred departments are affected, the recruitment of an

officer should be dealt with like other mixed cases, *i.e.*, in the case of a difference of opinion between the Executive Council and the transferred department, the decision should rest with the Governor. I take it that the sanction of the Secretary of State will have to be finally obtained for the creation of a new post. This meets the first part of my objection (paragraph 13) and I therefore accept the proposals of the Committee in preference to those put forward by my Colleagues.

2. One of the most important questions is how are differences of opinion between the Minister and the Legislative Council on the one side and the Executive Council on the other to be settled. I have pointed out in my Minute of Dissent (see heading Transferred Departments) my strong objections to the proposals put forward by my Colleagues on this point. The question then was under the consideration of the Functions Committee. Their proposals will now be found in paragraphs 60 to 63 of their Report. They differ in very important respects from the proposals of my Colleagues, and meet, to some extent, the objections which I have advanced.

#### TEMPORARY RESUMPTION BY THE GOVERNOR

3. According to my Colleagues, in case of differences of opinion the Governor might assume control of the administration of the transferred.

departments until the causes of difference disappear. Their various proposals are likely to cause great friction. Naturally therefore they want the power of resumption of the transferred departments as a "deterrent of factious and irresponsible action by the Minister and the Legislative Councils." They will not allow the opinion of legislature to prevail ultimately against that of the Governor. They would further empower the Secretary of State finally to retransfer any or all of the subjects from the transferred to the reserved list (paragraph 102). In case of dispute between the Minister and the Executive Council where the interests of both the departments—transferred and reserved—are involved, they will allow the Governor to decide only the question of jurisdiction; *i.e.*, the question as to which department should deal with the latter (paragraph 103). As I have pointed out in my Minute of Dissent all these proposals go, in my opinion, against the Reforms Report, and they are not endorsed by the Functions Committee who differ from the Government of India in almost all these proposals. The Committee do not endorse the proposal for the transfer of any subject from the transferred to the reserved list. The Governor will always have to find a Minister to administer the transferred department, *i.e.*, an elected member of the Council who alone is always to be responsible for that department; but it is never to be adminis-



tered by the Governor-in-Council and the Governor himself only administers it as a substitute for the Minister during the interval between the dismissal of one Minister and the appointment of another. This, of course, is very different from the proposal of my Colleagues which enables the Governor to keep the portfolio in his own hand until the Legislative Council yields to his wishes. According to the Committee, the Governor is to decide not only the question of jurisdiction but also all cases of disagreement between the Executive Council and the Minister. He will have to enforce compliance however by the Executive Council under section 50 of the Government of India Act if they prove obdurate but can require action by the transferred department in ordinary cases only if he can find another Minister but in emergent cases can dismiss the Minister and take the necessary action himself. But he has soon to find the Minister. Emergency is thus provided for. The transferred department will always continue as such. This is reasonable but it may be doubted whether the simpler method in the Reform Report under which the Governor's decision is declared to be the order in the case is not preferable.

The temporary nature of the resumption by the Governor and that also only in cases of emergency is essential according to the Committee: thereby they place the Minister in relation to the

Governor in a higher and certainly not a lower position than the Executive Council. This question of transfer is so important that I venture to make again a few observations in view of what is now repeated in paragraph 87 of the despatch.

#### A STRONG PROTEST

4. I cannot too strongly protest against the proposal to allow the Governor to resume the portfolio of any transferred subject and to empower the Secretary of State on the motion of the local Government and the Government of India to retransfer any subject from the transferred to the reserved list. As I have said before, it cuts at the root of the whole scheme. Let us see what this implies. The Reforms Scheme is intended to release the duly elected representatives of the people, in part at any rate, from the control of the Civil Service. The Indian opinion is unanimous that this step is necessary in the interests of good administration and is due to the failure of the Civil Service to carry out the intentions of the Parliament and of the people of England. The Governor in some provinces is likely to be a civilian for some time to come. In others he will be greatly under civilian influence. In these circumstances the provision to re-transfer is, and will be received as, a warning to the Legislative Council not to indulge in a course of action which will lead the Civil Service to take that step.

In fact, my colleagues practically say so in clear terms. The Civil Service have also openly declared their hostility to any real reform. It is absurd in these circumstances to place the future of Indian constitutional reform in their hands. The reforms are a gift of Parliament, not of the Civil Service. The Parliament may take it away at any future time if they choose. The future Legislative Councils have to perform their duty to the people of India and to Parliament. But to place this weapon in the hands of the Civil Service is, in all probability, to ensure failure of Reform. They should not be allowed in future, as they have done in the past, to nullify the policy of the people of England. The scheme put forward by my colleagues is calculated to produce that result. It creates possibilities of frequent deadlocks if the Minister and Legislative Councils perform their duty to the country and to Parliament, and makes that a reason for getting rid of responsible government.

The interposition of the Secretary of State is no safeguard as in all that has been said above, the Secretary of State has allowed himself to be merely a passive instrument in the hands of the Civil Service. I can only say that if I had felt such a standing threat necessary, I should not have asked for any substantial reform in the direction indicated and I would not have regarded it as a loyal acceptance on my part of the principle of respon-

sible government which must now be taken to have been laid down by Parliament for application to India. I am glad therefore the Committee do not endorse this proposal.

### BUDGET PROPOSALS

5. The financial or budget proposals of my colleagues are in conflict with the recommendations of the Functions Committee on the unity of Government. The latter to make the Governor practically the final judge where the functions of the reserved and transferred departments touch or overlap including all financial questions like the division of the entire provincial revenue between the two halves of the Government or where the action taken in one department affects the other, and also to make the Minister responsible for action in the transferred department even when it is deflected by considerations affecting the reserved departments. The proposals of my colleagues are also admittedly in conflict with the recommendations made by the Committee about taxation (see paragraphs 76 and 77), which were not before the Council when we settled our despatch dated the 5th March.

The Committee have come to the conclusion that taxation for provincial purposes should be regarded as a transferred subject. They would first set apart the contribution to the Government of India, the sums required for the service of the

provincial debt and the sums that are required for the reserved services. The first two are definite amounts. The third will be definite if we assume the contribution to be the previous year's allotment or the average for a certain number of years. After setting apart these amounts, they regard the whole balance of the revenues of the province to be at the disposal of the Minister, and taxation in their opinion should be considered as a transferred subject, any difference of opinion on any question to be settled by the Governor as "mixed subject." This, of course, is in direct opposition to and far preferable to the scheme put forward in the Government of India despatch to which I have taken exception.

6. My colleagues are of opinion that these and certain other proposals of the Committee which have an important bearing on the distribution of financial powers and duties between the two halves of Provincial Governments have been rendered obsolete by the more recent decisions of the Government of India in our despatch of the 5th March and have not therefore dealt with them at length. I do not think this is the right course to follow. Our despatch was subject to reconsideration in the light of the Report of Lord Southborough's Committee who had our proposals before them. Though our Report was no doubt more recent as my colleagues say—the Committee's Report being dated the 25th February and ours, the 5th March



—the former was not before the Members of the Council when the latter was settled. We have therefore to consider their recommendations, modify our proposal if we accept any which are inconsistent with them, or reject their recommendations on their merits. We have for that reason said in our Report (paragraph 42) that we propose to deal with the working of the new Provincial Governments whose functions are divided into the “Reserved” and “Transferred” subjects, after a consideration of the Report of Lord Southborough’s Committee.

I have already stated that the financial proposals of my colleagues are opposed to the recommendations of the Functions Committee in paragraphs 60 to 63, and paragraphs 76 and 77 of their Report. Further, their scheme is, it appears to me, impracticable and can be shown to be unacceptable if we agree with the Committee generally about the division of subjects. It is necessary, for this purpose, to set out briefly the nature of the scheme.

7. It is of the essence of the scheme that there should be a definite allocation to each half of the Government of the receipts from the reserved and transferred subjects respectively. To those receipts is to be added the share of the balance including all surplus that stands to the credit of



each province after deducting the amounts earmarked for special purposes. The normal expenditure for the reserved and transferred subjects is then estimated and if the revenue derived by each department from its subjects is not sufficient for the expenditure, the difference is to be made good to them by an assignment from the revenue of the other departments. Obviously, therefore, the division of subjects is of the greatest importance to the scheme as the latter hinges upon the receipt of revenue by each half of the Government from the reserved and transferred subjects, respectively. Before, however, I give the division of subjects, I shall state the general objections to the scheme, for such modifications in the scheme itself or adoption of any other scheme that might fit in with the Report of the Committee.

8. It is not quite correct to say that the financial proposals of the Reforms Report scheme affecting the allocation of funds to the two sections of Provincial Governments and budget procedure in Provincial Councils evoked little criticism. They were criticised even by the supporters of the scheme as being among its weaker parts. But the criticism was not the ground that the proposals conceded too much to Ministers or the Legislature. Except in the Bombay Manifesto signed by Sir Dinshaw Wacha and eight other prominent Moderate Con-

gressman, the proposals were criticised as being unfair to the Ministers in charge of transferred subjects and whittling down the control of the legislature by giving too wide a power of certification to the Governor. The proposal that the supply for reserved subjects should be a prior charge on the provincial revenues was attacked, and it was pointed out that Ministers driven to new taxation to be proposed on their own responsibility while possibly feeling that it may have been unnecessary if an excessive share of the provincial revenues had not been absorbed by the already fully developed reserved subjects, would very likely find themselves in an almost untenable position before the Legislative Council whose support they require. Such was the criticism; what are the proposals of my colleagues?

9. There can be no objection to the proposed Audit and Exchequer Act or to the appointment of the proposed Committee on Financial Relations. The control over provincial balances now exercised by the Government of India also may be replaced by a few simple regulations which will increase control of the provinces over them. There may also be—it is advantageous that there should be—a common Finance Department for both halves of the Government. While it would scrutinize all proposals of expenditure, it should not, as stated by the Functions Committee, have power to criticise

the policy except in its financial aspect. The proposals that the right should be reserved to the central government to make supplementary levies upon provinces, that each half of the Government should have a defined power of raising the revenue to provide for the expenditure which it considers necessary, that a division should be made of the resources available for the purposes of either half of the Government, that a system of assignments of revenue by one section of the Government to the other should be introduced and other and similar proposals will have the effect of dividing the Government into water-tight compartment, without the compensating advantage of making them responsible to the Legislature; while the further proposal that Council resolutions will have only the status of recommendations to the Governor in Council as well as the Governor and Ministers reduces the Council to as much impotence as the present Councils. The remaining proposal that the ministers may have to resign on account of budget resolutions carried against them, is of the nature of a finishing stroke. Notwithstanding much that could be said against the Reforms Report Scheme, a number of critics rallied to its support for the reasons, among others, that it provided for a unified budget and for its being voted for by the Legislature. We are now asked to treat the Council as an advisory body in all matters—legislative,

financial and administrative— pertaining to the reserved department and to reduce its financial powers as proposed in the Reforms Report Scheme even as regards the transferred departments. There is no necessity to modify that Scheme in this manner and to this extent. Assuming that all the adverse criticism to which its financial proposals have been subjected is well-merited and that it will not be possible to work it without the maximum of friction, it is still possible to retain its two cardinal features of a single budget for province and control by the Legislature, whatever other modifications are made in it. Given a common Finance Department, a common Finance Committee of the Council and joint deliberation by the whole Government in the settlement of the allotments, there is no difficulty of retaining these features. It is a strong point in favour of the Reforms Report Scheme of budget procedure that it minimizes the drawbacks of a system of dual government in provinces and gives both to Executive Councillors and Ministers opportunities of sympathetically influencing each other's decisions to the advantage of both, and of the people of the province. The Governor too will be in a better position to discharge his duties as head of the whole government and promote friendly relations between its two halves. The knowledge that Ministers with their responsibility

for the transferred departments have also been a party to the allotments made for reserved subjects, is calculated to induce in the Legislative Council a conviction of the necessity of those allotments and to minimize the chances of their seeking to cut them down. This will be of great moral value as it will curtail the necessity of the Governors making use of his reserved power of certification which cannot cause friction and conflict between him and his Executive Council on the one side, and the Ministers and the Legislative Council on the other. The financial dispositions of each year can be made with reference to the particular requirements of that year, there will be a much-needed and most useful element of elasticity imparted to the financial arrangements, and when a proposal of new taxation is made in those circumstances, the Legislative Council will more easily persuade itself to accept it and support the Government than it can be expected to do under a system such as is proposed by my colleagues now. The control by the Legislature must in any event be regarded as indispensable if the Reforms are to be worth anything in the eyes of even the supporters of the Scheme. The unified budget could be there and for the present should be. What is put forward is a combination of the drawbacks of autocratic and responsible government with none of the advantages of the latter. Under the proposed scheme the position of Ministers will

be untenable and that of the Legislature, no better than it is at present.

#### MODIFICATIONS OF THE PROPOSALS

10. Let us see whether the scheme put forward by my colleagues cannot be modified to preserve the unified budget and control of the Legislature and meet generally the objections which they have advanced against a unified budget. The proposal to divide the free balance and to divide the surplus may be accepted. We may also provide for the contribution of the province to the central exchequer for the charges for existing loans and, if necessary, earmark a sum in provinces liable to famine for famine fund; and as stated by the Functions Committee, allot a sum for the reserved services. The Committee themselves do not mention how that sum is to be ascertained. We may take the amount of the previous year or the average of the three years. Then instead of a definite allocation to each half of the Government of the receipts from the reserved and transferred subjects respectively, we may divide the amount available in certain proportions between the two halves of Government. The proportion, of course, will depend upon the subjects transferred. The share allotted to the reserved department will provide for the normal growth of the reserved services. The non-official Members of the United Provinces Legislative Council at their meeting on the 13th August 1918 suggest a share of one-tenth for



the reserved department. Any additional amount required may be allotted by the Legislative Council.

### JOINT COMMITTEE

11. A proposal was noticed in the Reforms Report to appoint a joint committee representing both official and non-official views dealing with both reserved and transferred subjects which should hold good for a certain period, always supposing that it can be varied in the meantime by agreement confirmed with the assent of the Legislative Council. The suggestion was rejected by the authors of the Reforms Report on the ground that the Governor's decision would be more popular with Indian. Speaking generally, it may be said that if an impartial committee could be had their decision would undoubtedly be more satisfactory under any scheme the provisions in the Reforms Report which are endorsed by the Functions Committee that the resolutions of the Legislative Council should be binding on the Minister so far as his allotment is concerned and should be binding on the Executive Council so far as the application of their amount is concerned with a power to the Governor to restore any provision so far as the reserved departments are concerned if he thinks it necessary for the administration of those subjects, should be maintained. There is no harm in giving such power if the claim of the reserved departments is limited to a share as proposed.

12. We may now consider these various schemes including that in the Reforms Report with reference to the proposals of the Functions Committee about the division of subjects and I hope to show that the scheme put forward is far better than the scheme of the divided purse based upon the division of subjects put forward by my colleagues. The administrative machinery, it appears to me, would run smoothly, no invidious distinction would exist between Councillors and Ministers or Reserved and Transferred Departments. The Legislative Council would have the same control as allowed to it by the Reforms Report Scheme. There would be no occasion for referring proposals for taxation to the Grand Committee as required by the scheme of my colleagues. This removal of all questions of taxation from the Legislative Council, it appears to me, is a fatal objection. With reference to the division of subjects, it also would appear that the Reforms Report Scheme is far preferable to the scheme of my colleagues.

13. The following table shows the division of the list of Provincial subjects between the Reserved and Transferred Departments. The omissions are immaterial.

## LIST OF PROVINCIAL SUBJECTS.

### RESERVED SUBJECTS.

1. Irrigation and Canals. Drainage and Embankments and Water Storage.

2. Land Revenue administration, as described under the following heads:—

(a) Assessment and collection of land revenue ;  
 (b) Maintenance of land records, survey for revenue purposes, records of rights; (c) Laws regarding land tenures, relations of landlords and tenants, collection of rent ; (d) Court of Wards, Encumbered and Attached Estates ; (e) Land Improvement and Agricultural Loans ; (f) Colonization and disposal of Crown lands and alienations of land revenue.

3. Famine Relief.

4. Land acquisition.

5. Administration of justice.

6. Administrator-General and Official Trustee.

7. Judicial stamps.

8. Development of mineral resources.

9. Industrial matters included under the following heads:—

(a) Factories ; (b) Settlement of labour disputes; (c) Electricity ; (d) Boilers ; (e) Gas ; (f) Smoke Nuisances ; and (g) Welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing.

10. Police, other than Railway Police.

11. Miscellaneous matters :—(a) regulation of betting and gambling ; (b) prevention of cruelty to animals ; (c) protection of wild birds and animals ; (d) control of poisons ; (e) control of motor vehicles and (f) control of dramatic performances and cinematographs.

12. Control of Newspapers and Printing Presses.

13. Coroners.

14. Criminal Tribes.

15. European Vagrancy.

16. Prisons and Reformatories.

17. Pounds.

18. Treasure Trove.

19. Government Press.

20. Franchise and elections for Indian and provincial legislatures.

21. Regulation of medical and other professional qualification and standards.

22. Control of members of All-India services serving within the province, and of other public services within the province.

23. New provincial taxes, that is to say, taxes included in the schedule of additional provincial taxes (*v.* paragraph 75), so far as not included under previous heads. But see paragraph 76 of the Report.

24. Borrowing of money on the sole credit of the province.

25. Imposition of punishments by fine, penalty or imprisonment, for enforcing any law of the province relating to any provincial subject.

26. Any matter which, though falling within an All-India subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.

27. Provincial Law Reports.

#### TRANSFERRED SUBJECTS.

1. Local Self-Government, that is to say, matters relating to the constitution and powers of Municipal Corporations, Improvement Trust, District Boards, Mining, Boards of Health and other local authorities established in the province for purposes of local Self-Government.

2. Medical administration, including hospitals, dispensaries and asylum, and provision for medical education.

3. Public Health and Sanitation and Vital Statistics.

4. Education.

5. Public Works included under the following heads:

(a) Provincial buildings;

(b) Roads, bridges and ferries, other than such as are declared by the Governor-General in Council to be of military importance ;

(c) Tramways within municipal areas ; and

(d) Light and Feeder Railways within municipal areas.

6. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.

7. Civil Veterinary Department, including provision for veterinary training, improvement of stock and prevention of animal diseases.

8. Co-operative Societies.

9. Excise.

10. Registration of deeds and documents, subject to Indian legislation.

11. Registration of Births, Deaths, and Marriages, subject to Indian legislation for such classes as the Indian legislature may determine.

12. Religious and Charitable endowments.

13. Development of Industries, including industrial research and technical education.

14. Adulteration of food-stuffs and other articles, subject to Indian legislation as regards export trade.



15. Weights and Measures, subject to Indian legislations as regards standards.

16. Museums (except the Indian Museum and the Victoria Memorial, Calcutta) and Zoological Gardens.

17. Fisheries.

18. Forests in Bombay only.

19. Ports.

20. Inland Waterways.

14. It appears to me that there is a fundamental objection to the proposal of the Government of India to make the division of subjects any basis for the allocation of revenue. The division of subjects is made on certain considerations which have nothing to do with the revenues derivable from these subjects. The Functions Committee were invited to make this division in accordance with certain considerations set out in the Reforms Report which had nothing whatever to do with the funds to be placed at the disposal of the two halves of the Government respectively. The Report of the Committee shows that they had in view these considerations and none other. My colleagues, therefore, I think, are not justified in allocating to each half of the Government the revenues derivable from the subjects allotted to those halves on considerations which had nothing to do with the incomes therefrom. It is possibly this fact which

made the Committee recommend that taxation should be a transferred subject, because they must have felt that the division of subjects ought not to carry with it the allocation of the revenues derivable from those subjects or the right to raise revenue by taxation from those subjects. If therefore we accept generally the recommendations of the Committee about the division of subjects, I think we are bound also to recognise the fact that they must have felt that the administration of transferred subjects could not be carried on with the revenue derivable from those subjects, and therefore the right to impose taxes, including those which are referred to in paragraph 75 of the Report, must be given only to the Minister in charge of the transferred departments and should not be a reserved subject.

15. It will appear from this table that the chief earning departments come under the "Reserved" head. The executive council will benefit not only by the normal growth but will be able to increase their land revenue by executive action without recourse to the Legislature. The great spending departments on which the real progress of the country depends are the first six items in the list of "Transferred" subjects. There is very little doubt that the Executive Council in charge of the "Reserved" departments will seldom be under the necessity of claiming any contribution

from the Minister in charge of the "Transferred" department for the administration of their subjects. The minister, on the other hand, will never have a sufficiency for his expanding departments. He will always want the full amount which can be obtained from his Subjects and much more. His Subjects are not expanding sources of revenue. Excise ought not to be, and in Indian hands will not be, an increasing source. But is he likely to get anything from the "Reserved" departments? I feel fairly sure that the revenue obtained and obtainable by the Executive Council will set the standard of their expenditure. The services are under them and we know from experience that there is no limit to their demands and to the general sympathy with which requests for new appointments to be filled by English officials, for allowances for them, and for increase in their pay or pensions, is viewed by the Executive Council. The Minister in charge of the "Transferred" departments will be at the mercy of the Executive Council if there is no external control. From this aspect let us see how far the schemes are free from the criticisms which have been urged against the scheme in the Despatch dated 5th March (see paragraph 69).

16. The first objection is that overdrafts on provincial balances, taxation and provincial borrowing would require a clear demarcation of each half

of the Government ; my scheme provides for a clear demarcation by assignment of a share ; further no taxation or borrowing ought to be allowed and no responsible Governor will allow it if the Reserved department is in possession of funds as they will be according to this division of subjects which, considering the comparative needs of the two departments, should be shared with the other. If therefore the Governor or some external authority is not allowed to allocate from the Revenues in one Department a certain sum for the benefit of the other deadlocks are inevitable. There<sup>o</sup> will be none under the Reforms Report scheme or Functions Committee scheme as the power of decision is left in the Governor or under the scheme I have put forward which does not allow comparative disparity of income. If such power is given to the Governor we stand exactly where we stood under the Reforms Report scheme which also requires a decision in case of difference by the Governor. As to the provincial balance, my colleagues have not yet decided as to the authority who is to make that division. I presume it must be the Governor. Apparently, we are not therefore better off. Again, it is unlikely that there will be such provincial balances for division<sup>o</sup> in the future, as both the departments unfettered as they will be by the rules of the Imperial Government will utilize the resources at their disposal or at least earmark the same.

It may also be that they may in future utilize the balance, as they ought to, in reduction of the debt.

17. The second objection given is that one-half of the Government should not have power to refuse funds which may be required for the working of the other half. I have already pointed out in my Minute of Dissent that my colleagues ignore the power of the Governor to decide in cases of dispute, and that this objection therefore can never arise under the Reform Report scheme. Disregarding, however, the Governor's power for the moment, the new scheme put forward by my colleagues will, if this division of subjects is to be maintained, never leave for the reasons I have given any room for intrusion by the Minister and his Departments except as an importunate supplicant. The work of the Executive Council which will be in possession of by far the major portion of the funds will seldom be interfered with by the other. The scheme therefore does not comply with the condition or meet the difficulty to the same extent as the other two schemes. According to my colleagues taxation will be possible only for the Executive Council and not for the other and to me it appears to be out of the question to allow a power of increasing the land-revenue in any form either by taxation or by settlements for their benefit, while it is to the land we have to look for the

development and expansion of the important transferred departments.

18. The third objection about the friction which the annual allocation of funds will generate will arise in this case also though in a form very prejudicial to the Minister and the Transferred Departments who will every year have to claim contributions from the Executive Council. According to this scheme the Minister will be at the mercy of the Executive Council while according to the Reforms Report and the Functions Committee the Governor will decide between the two—a fairer arrangement; while under the third scheme even the Governor is eliminated and one is not at the mercy of the other.

19. The fourth and last objection concerning the incentive for each department for the development of its own resources is, it appears to me, fatal to the entire scheme. For, what does it amount to? Take the instance of land, which is the most important source of revenue to the province. The Executive Council, under the scheme, will not only take the normal growth of land revenue, but would be entitled to increase it by periodical settlements without any recourse to the legislature. Even under normal conditions they will have, compared to the Minister, ample revenue for their needs: but there is little doubt that pressure will be put upon



them by the English Services for increase in their establishments, pay and services—a pressure to which they would not be unwilling to yield. It is very probable, therefore, that the raiyat already impoverished will be further harrassed. The developments of the transferred departments essential to Indian progress will be retarded. The result will be the same with reference to all sources of revenues. The Minister and the Executive Council are invited by this proposal to raise as much revenue as they could; nothing can be more prejudicial to the interests of the country. It appears to me therefore that the scheme of my colleagues, under these conditions, will be fatal to the prosperity of the country. Again in principle it is not right that the country as a whole should not benefit by the normal growth of revenue. Neither the scheme in the Reforms Report nor the 3rd scheme is open to this objection. Nor does it appear to me that the scheme of my colleague complies with the conditions which they themselves have laid down that the scheme is intended to tell each department what range of expenditure it may provide for; as in the case of the Minister, the expenditure can never be limited by the receipts from his earning departments and the opening balance at his credit but will be dependent upon what he thinks he should fairly demand from the other departments and also by the proceeds of fresh taxation.

It appears to me that all the reasons which have prompted these new proposals can be attained under the third scheme. It is unnecessary to create two separate pools by receipts from transferred and reserved subjects.

#### LAND REVENUE.

20. Indian poverty is attributable to the land revenue policy and the industrial policy hitherto followed, and it is satisfactory to find that the Committee recommend that taxation for imposing cesses on land and duties upon the unearned increment on land should be treated as a provincial subject (see paragraph 75) and also a transferred subject (paragraph 76) though apparently by an oversight they do not include taxation in the transferred list. The Government of India also agrees that such taxation should be imposed by provincial governments without the previous sanction of the Government of India. The Committee state, however, (paragraph 79) that as the assessment of land revenue is left to executive action, the periodical settlement of land revenue must be treated as a reserved subject within the jurisdiction of the Executive Council only. It appears to me that these two propositions are incompatible. Cesses and duties cannot be imposed on land by the legislature without regard to the revenue imposed thereon by the Executive Council and *vice versa*. The one is dependent on the other; and if

the Committee's views are to be maintained, they will have to be treated as a mixed subject in which the Governor's opinion should prevail in case of any difference of opinion between the Executive Council and the Minister. In my opinion, however, there should be no increase of revenue merely by executive action. The land revenue or land rent should be treated as revenue pure and simple to be imposed only by the Legislative Council. At present, outside the permanently settled zemindaries, the theory maintained by the Executive Government is that land is the private property of the Crown, the land-holder being bound to pay any assessment that may be fixed by the Executive Government at their discretion. India is the only country in the world where neither law, nor custom nor competition determines the revenue or rent. This has been responsible to a great extent for the increasing poverty of the country. It has certainly tended to keep away labour and capital from land. It appears to me to be therefore essential that the proposal of the Functions Committee that the entry "Duties upon the unearned increment on land" "should be so framed as to make the provincial powers of land taxation as wide as possible" should be accepted so as to cover the case of land revenue assessment referred to in paragraph 79. This may be done by altering the entry into "all demands upon land" and by making the

imposition of any revenue on land either by legislation or by periodical settlements a transferred subject. In the alternative. I would urge that it should at least be laid down that (1) the general principles of land revenue assessment be embodied in provincial legislation as recommended ten years ago by the Royal Commission on Decentralization, and (2) every proposal of resettlement of a district be embodied in a bill that should be passed by the Legislative Council like any other taxation bill.

#### INDUSTRIES.

21. The proposal of the Committee to transfer all questions of industrial development in my opinion should be accepted. As my colleagues are unwilling to accept this proposal, it is desirable to state the present situation. India we know was a great manufacturing country whose wealth attracted the East India Company. Before the Mutiny, her industries were by deliberate policy of active discouragement in India and by prohibitive duties in England, destroyed. She was thus reduced from an agricultural and a manufacturing to an agricultural country. The general policy of the subordination of Indian to English commercial interests has since continued to the present day, India has been utilized for the exploitation of her natural resources, for the investment of English capital and for the dumping of English goods.

Instead, therefore, of the Indian industries relieving the pressure on land, their ruin has thrown millions of work-men out of employ to compete with the agriculturists. This attitude of the Government has materially contributed to the unrest and disaffection in the land. It is therefore essential that we should adopt a course which would place us beyond suspicion.

We know now that there are Trade Commissioners whose business it is to find out the natural resources and facilities for trade—English trade in particular that exist in the country. The results of their observations are to be made the basis of expert advice as to the best mode of utilizing those natural resources in the interests of English trade. It is true that the information would be equally available to the Indian public but we know that it is the commercial organizations in England that would be able to utilize them. There is no objection, of course, to the export of our raw products without detriment to the interests of the country itself, but she should not be deprived of the means of creating her own manufacturing industries and employing her own labouring population. This can only be done if the development of Indian industries is a “transferred” subject, otherwise a great export of food stuffs tending to the starvation of millions not only by depriving India of her food-stuffs which she badly wants but also by depriving her of great opportu-

nities which the manufacturing industries will afford her, will be the result.

Similarly, as to the investment of English capital. We know that we cannot do without English capital, but we must obtain it on the same terms generally on which it would be lent to the colonies and other countries. The terms must be those agreed upon between the English capitalists and competent Indians who will protect Indian interests. The English officials in India and the India Office have not in the past protected India. They have submitted to English capitalists and I have no doubt will do so in future. We want also Englishmen to start industries in India but not to the detriment of indigenous industries. It is quite clear to me that unless there is an Indian to protect Indian industries, we will have English firms starting industries on a large scale in India in which the Indians will have very little share to the detriment of Indian industries.

That unfair means have been adopted to hamper Indian industries for the benefit of Lancashire and other capitalists is well known. Unfair competition should not be allowed.

For these reasons, if we do not leave the development of Indian industries in Indian hands, I feel satisfied that the same course will be followed in the future as in the past and will lead to increased irri-



tation between Indians and Englishmen. Development of Indian industries should be a transferred subject. If any right of interference or advice is left to the Government of India, such power should be exercised only by an Indian Minister controlled by the Legislative Council. There is no objection whatever to the Government of India themselves starting any industries. But their further proposals as to advice to be tendered to Local Governments will repeat all the evils which have been condemned in paragraphs 317 to the Reforms Report. These proposals of my Colleagues to diminish popular responsibility and reverting to the old practice would appear to go against that part of the Reforms Report. The efforts of Provincial Governments in the past, meagre as they have been, have been hampered and not stimulated by the necessity under which they lay of obtaining the sanction of the Government of India and the Secretary of State at nearly every turn. More progress in the desired direction would have been made if they had had greater freedom of action.

I shall briefly notice some of the objections to transfer the development of industries to the Ministers. It will be noticed that according to the Functions Committee articles whose production, etc., requires control in the public interests and Central Research Institute and such heads as the Zoological Survey—are all-India subjects. In fact,

it is a part of the scheme generally advocated by Indians that the Government should itself undertake the responsibility of starting and maintaining certain kinds of industries, which cannot be started or maintained by private enterprise. It is therefore not an argument against the transfer that the Central Government itself should maintain those industries which are required in the interests of military safety or political stability. In fact, such industries would afford scope for the training and employment of those Indians in higher branches who are competent to profit by it. They have nothing to do with the question of the development of industries. If, on the other hand, as my Colleagues seem to contemplate, such industries are placed in the hands of foreign companies with loans, guarantees or undertakings to purchase products, they will not only stand in the way of the growth of indigenous enterprises but as in the case of railway companies will not assist Indians. The policy is opposed to the current view to nationalize such industries wherever possible, and will conduce to labour trouble in an acute form, widen the gulf between capital and labour, and increase racial friction. It appears to me therefore that it is wrong to say that the committee have ignored this aspect of the case. The argument that the Ministers will inevitably be devoid of industrial experience, as if the civilian member has great ex-

perience, is a strong condemnation of the proposal of my Colleagues to leave in the hands of the Governor the power of the appointment of Ministers. It is the policy that has been hitherto advocated by Indian publicists that has now been finally accepted even in England and by the Industrial Commission and there is little doubt that Indian Ministers can be found who will be competent to do the work. Lastly, it is said that there is a racial question involved, that considerable influence would be exercised on Ministers to refuse any form of aid or countenance to British enterprise and to favour Indian undertakings. So far as Indians are concerned, this charge is absolutely unfounded. Objection to the English capital and enterprise is raised only when that stands in the way of Indian enterprise and Indian prosperity. And to remove any such misapprehension difficult to provide safeguards similar to those proposed by my Colleagues in other cases. But I assert without hesitation from experience that so far as the Government are concerned, the fear that they will unduly favour foreign enterprises to the prejudice of Indian enterprises is well founded. It is true enough that the Industrial Commission makes recommendations themselves unsatisfactory, which in some respects may assist the Indians but here again we know from experience how little we can rely on such recommendations when they have to be carried out in practice.

## TRAMWAYS LIGHT AND FEEDER RAILWAYS.

The Functions Committee have recommended that Light and Feeder Railways and Tramways should be in the list of Transferred Subjects under the control of the Indian Minister. My Colleagues would now transfer them to the 'Reserved' List. The reason is that the Minister and the Legislative Council might interfere with the scheme of Railway development. Indian opinion is unanimous that District Boards should, in the interests of national progress, be allowed to build light railways; and the decision of my Colleagues is calculated to subordinate national interests of capitalists, railway companies. Existing contracts and guarantees will, of course, be protected, and further means can be easily provided for that purpose if the Governors' control is not sufficient. I would accordingly accept the recommendation of the Functions Committee.

## EDUCATION.

22. It is not necessary to have the issue clear before us. The question is not one between official control and university control, as it is supposed by those who put forward the findings of the Sadler Commission against the transfer of the subject of education. The question simply is whether whatever official control is to be exercised by the Minister. If there is no control to be exercised over university or

secondary education, cadet question. If there is any control, then should the Executive Council exercise that power or the Minister and the Legislative Council! Again, so far as the Government of India are concerned, what powers should be left to the Government of India; and, if so, who should exercise them? These are the questions.

The Functions Committee have proposed that Education as a whole should be transferred. My Colleagues would transfer only Primary Education. They would fix no limit of age which they have to be fixed by the Minister, subject to the control of the Legislative Council. They would not fix the curriculum, *i e.*, whether the entire teaching in all the subjects should be in English or whether English should be taught only as a subject, and what the other subjects are which should be taught. These also are to be left to the Minister and the popular assembly. It appears to me to be impracticable to divide the subject of Education like this. Hitherto no such division has been made anywhere in India.

Assuming, however, such a distinction can be made, should it be carried out? A foreign service with different ideals might be able to impart education to the leaders of the people, leaving it to them afterwards to take the necessary steps to impart education to the people of the country. But it appears to me, with all respect, that it is absurd to expect them to impart national education to a foreign

race. The Reforms Report leaves educational progress to the popular assemblies, and there is very little doubt that Ministers alone can obtain the money required for its expansion and improvement. Further, political progress is said to be dependent upon the expansion of sound education, and such expansion should not be left in the hands of classes which have hitherto opposed political and sound educational progress. Indians are deeply interested in it.

I have been the head of the Department of Education now for more than three years and I am satisfied that future educational progress depends upon Indian direction. My predecessor in this office, Sir Harcourt Butler, also would make it a transferred subject. The only other member of Indian Government who has been an Education member since the creation of the Department, Sir Claude Hill, who is unfortunately not here to sign the Despatch, has recorded his opinion in favour of transfer. The Governments of Bombay, the Punjab and the United Provinces would transfer education as a whole. The Madras Government would not transfer any branch of education. Bengal and Assam would not transfer collegiate education, but my Colleagues, like myself, are of opinion that this cannot be done if secondary education is transferred. Behar and Orissa alone are opposed to the transfer of secondary, technical and collegiate education. My Colleagues



would transfer primary education, while the reasons given in their report, if they are correct, tend inevitably to the conclusion that it is primary education that should be kept in the hands of the Government and that higher education may safely be transferred. Those who would keep education a reserved subject, do so I fear not in the interests of educational progress but for political reasons. They have themselves no scheme of education in view and their predecessors have been going on making experiment after experiment, all in the face of Indian protest, which they themselves have now to acknowledge had ended in failure. I should like briefly to refer to our educational policy.

A retrogressive policy has been followed since Lord Dufferin's time. Considering the vast problem that lay before the Government, it had been laid down that the Government should welcome every kind of private endeavour to supplement their efforts for the education of the country. Lord Dufferin's Government however, declared that the Government should retire from any part of the field which could be or should be left to private effort and made educational progress depend on private endeavour aided by Government grants. The results on secondary and collegiate education were deplorable, National education not being recognised by Government as an obligation, the pupils were left to study in such schools and colleges as were maintained by

private effort. Such schools were inadequate in numbers to receive the crowds who were seeking admission. Institutions multiplied to meet the ever-growing demand. Government grants were given only to the institutions which complied with its rules which were designed to secure efficiency. The other institutions failed to secure competent teachers. This again stood in the way of Government grants. A large number of inefficient institutions with incompetent teachers was the natural result of a system which does not recognize education as a national obligation, but only aids private effort by 'doles.'

Efforts were then made by the Government to confine higher education and secondary education leading to higher education to boys in affluent circumstances. This again was done not in the interests of sound education but for political reasons. Rules were made calculated to restrict the diffusion of education generally and among the poorer boys in particular. Conditions for recognition for 'grants' stiff and the various conditions were laid down and enforced, and non-fulfilment of any one of these conditions was liable to be followed by serious consequences. Fees were raised to a degree which, considering the circumstances of the classes that resort to schools, were abnormal. When it was objected that the minimum fee would be a great hardship to poor students the answer was—such students had no business to receive that kind of education.

Managers of private schools who remitted fees in whole or in part were penalised by reduced grants in-aid. These rules had undoubtedly the effect of checking the great expansion of education that would have taken place. This is the real explanation of the very unsatisfactory character of the nature and progress of secondary education ; and it will never be remedied till we are prepared either to give education to the boys ourselves or to make sufficient grants to the private schools to enable them to be staffed with competent teachers. We are at present not prepared to do either. English education, according to this policy, is to be confined to the well-to-do classes. They, it was believed, would give no trouble to Government. For this purpose the old system of education under which a pupil could prosecute his studies from the lowest to the highest class was altered.

For the masses, a new course of elementary or primary education solely in the vernaculars extending to about 7 years was devised. It was hoped that this would keep them in their present condition confined to their lowly ancestral pursuits. Schools confined to vernaculars were opened and encouraged to draw away boys from English studies. It was intended, and rules were framed to carry out that intention that if possible those who commenced their education in these schools were not to be encouraged to proceed to what are called the secondary schools

instituted for English education. The masses, the poorer classes of people, were thus deliberately denied all access to any real or English education. The result is that on account of their being prevented from following their English studies, they do not care to continue their studies in the vernacular schools and they cast off the little smattering of knowledge they acquire and lapse into illiteracy again. They are thus denied all means of material improvement, self-development and culture. I am accordingly glad to find that my colleagues are willing to leave the question of primary Education, including the question whether it should be English or Vernacular Education to the Minister. But what has been our record as regards even primary education? In the earlier years of this century Mr. Gokhale was pressing the claims of primary education upon the Government, and various statements on behalf of Government were made in the years 1906-7, which were taken to be promises of free education. So stood matters when the reformed councils met. Almost the first question to which the English educated community turned their attention was elementary education. Mr. Gokhale introduced his Education Bill which was opposed by Government and therefore rejected by the Council. But at the end of the year at the Durbar it was announced that the Government have resolved "to acknowledge the predominant claims of educational advan-

cement on the resources of the Empire." As a fact, that acknowledgment has not been translated into action. In most of all the local councils attempts are being made to introduce private bills for optional compulsory education. These bills are allowed to be introduced only on condition that no financial responsibility is thereby imposed on Government. Local resources are inadequate and such education as is imparted will not be efficient. Without Government financial assistance the scheme will not succeed or even cannot be put into operation.

With reference to commercial and industrial education we do not give the higher education required to foster manufacturing industries, to start great commercial concerns of any kind, or produce captains of industry or commerce but we have industrial schools to train intelligent artisans or foremen or to further or develop the local cottage industries which are capable of expansion by the application of improved methods or improvements. Similarly it was intended to start or encourage schools with commercial courses whose chief aim was to supply practical training for those who were to enter business houses in a subordinate capacity and hopes were held out that every effort would be made to find employment to pupils who received that training. The necessity of engineering and medical colleges is always recognised, but it is assumed that the efforts that should be made should

not be in the direction of starting more colleges but in the directions I have indicated.

Now there is no doubt that in all this the Government were actuated by the highest motives, but at the same time there is no use ignoring the fact that the Indians were satisfied that all these changes were made with a sinister purpose. It is the universal belief and there is little doubt that, facts unfortunately tend to support it, that, Primary English Education for the masses and higher education for the middle classes are discouraged for political reasons. Higher professional Industrial and Technical education is discouraged to favour English industries and recruitment in England of English officials.

If therefore, we should have more Indians in scientific and technical professions and more engineering and industrial colleges experience shows that the present system must be abandoned and that an Indian Minister alone would supply the necessary institutions. Otherwise we are likely to follow the same course as hitherto; we will tell those few of our young men who have made themselves fit for these professions that such education as they have received is not satisfactory at the same time discourage them from going to foreign countries to receive education and fail to provide sufficient facilities for education in India itself. The errors.



of the past are admitted even by those who will not allow education to be a transferred subject and a promise is made to repair them. The subject is far too important and vital to the interests of the nation for any further experiments to be made or for the matter to be left in the hands of those who stand thus self-convicted and whose promises have not been faithfully kept. The reason often assigned for mistakes in the past has been want of funds, and conservatism of the rural classes both of which I entirely deny.

For the nature of our mistakes in the past we have only to look to the Report of the Calcutta University Commission. They rightly point out that the teachers in the high schools are under educated and under-paid. The fact is that the Government are not utilising the funds at their disposal to mitigate the evils of the system, which is described by the Bengal District Administration Committee and the Rowlat Committee, for which we are responsible. The Commission point out that secondary education is unduly dominated by the examination system, which must be the case as long as the educational services are manned by officials who cannot on account of their want of knowledge of the vernaculars be responsible for the teaching: but who, at the same time supervise the whole system. They further point out that the stage of admission to the University should be that of the

present. Intermediate instead of the Entrance examination, as the boys who have passed the latter examination are not fit for University education or their want of knowledge in English language. This is the result of the system to which I have adverted which has discouraged English teaching in the earlier classes even as a language, against strong Indian protest. They also refer to the fact that the Entrance Examination of the University is not a preparation for the medical, engineering professions, or for careers in agriculture, commerce or industry. This, again, is due to the policy which I have referred to, which would only give secondary education fit for clerks and managers of offices and not for higher education in those subjects for which the Department, (that is the Government) is responsible. The Indian opinion, therefore is not responsible at all for this result. The Commission accordingly propose, to remedy these defects, by the appointment of a Board in which the majority should consist of non-official members—a recognition of the superiority of non-official guidance. They would make the Director an expert adviser “to the Member or Minister in charge of Education” which disposes of the arguments sometimes advanced that according to the views they entertain secondary education should be a reserved subject.

As to University education, there can be no more scathing condemnation of the system than

that to be found in the Commission Report. It has to be remembered that the University itself is an officialised body under Government control. They say that the Government and administration of the University are unsatisfactory and ineffective as an instrument for encouragement of learning. They point out that even such a University is under the unduly rigid control of the Government "There is far too much detailed Government intervention.

They are perfectly right, and it is impossible under such a system that any University can carry on its work efficiently. It is just for that reason that Indians are anxious to get rid of the bureaucratic control and place the University and secondary education under the control of a Minister. It is not difficult to come to the conclusion that the same state of things will otherwise continue. I am therefore of opinion that the Committee's recommendations should be accepted and Education as a whole should be transferred. Most of the important Native States have gone ahead.

#### NON-BRAHMANA MOVEMENT.

24. The nature of the objections taken to the transfer of subjects is proof of the necessity of responsible Government. Among the objections

advanced to it, there is one which finds a place in this report which for reasons that will appear later I feel bound to notice. The representative of the Madras Government (and it is said the Madras Government accept his view) has taken objection to the division of subjects on the ground that without adequate protection being provided for by communal representation, the non-Brahmins will be oppressed by Brahmins. I support non-Brahmin communal representation but I demur entirely to the proposition that it should be regarded as an essential preliminary to any responsible government for the reason given. As we are likely to hear more of this contention. I propose to state my view of the situation.

25. For the consideration of this question, it is essential to recognise two divisions among non-Brahmins, the high caste Hindus and the lower classes. In the earlier years of the Congress the non-Brahmin leaders were invited by the officials to stand aloof from it, and, if possible, to denounce it as inimical to their interests. They resolved to disregard the advice. Their main reasons were these ; They found that by the British conquest it was the Mahomedans and the non-Brahmin higher castes who had suffered most. The Rajahs and the zamindars who were deprived of their properties by the British Government generally belonged to those classes. By far the majority of them were either

deprived of their properties or allowed to retain whole or portion of them on conditions which were very onerous. The revenue payable was very heavy with reference to the properties which they held at the time of British conquest. Their rights were being encroached upon. The ryotwari system before 1857 was iniquitous and destructive of private property. Subsequently though not quite so bad, it was felt to be oppressive. The merchants and the artisan classes the labouring classes were involved in the misfortune of these superior classes. I have already pointed out that the "raison de etre" of the Congress was the intense poverty of the people and the measures which they put forward to relieve such poverty, concerned the non-Brahmins more than Brahmins; the non-Brahmin higher castes, therefore, stood to gain from its success more than any others. The other questions which the Congress took up, like the separation of judicial and executive functions, also concerned them more. Under the conditions that then existed, and, to a great extent, even now exist, the Brahmins had far greater chances of success in the services and elsewhere. They had the qualities which were required by a foreign ruling race who wanted good subordinates. The Mahomedan and the Hindu zemindars and the Hindu martial classes were looked upon with suspicion on account of such of their qualities which are only required for administration and government;

and not required in those whose main function was to obey and produce wealth which should be at the disposal of their masters. The non-Brahmin leaders therefore, felt that they had a better chance of success in the new condition of things which they hoped would be brought about by the Congress agitation when the qualities which they, in their own opinion, possessed in a higher degree than the Brahmins would have a better scope. They found also that, though the old class of Brahmins had faults which are now imputed to them by the leaders of the non-Brahmin movement, a distinct improvement was visible in the younger generation that was growing up and they hoped that common efforts, common aspirations, and the common good of the country will introduce a change in the Brahmin class. These hopes have not been disappointed. It is true that there are still Brahmin leaders under the domination of feelings and sentiments which are not conducive to harmony or progress, but, on the other hand, there is no doubt that, generally speaking, the Congress movement has brought about a greater rapprochement between the various classes. Mrs. Besant, in particular, has brought over the whole of her Brahmin party to discard the Brahmin restrictions which stood in the way of the hearty co-operation with the non-Brahmins. Besides the reasons above referred to, the non-Brahmins were startled at the official attitude. Many of the



officials while insisting upon the existence of this class division as a bar to political progress, not only did not themselves take any active steps to remove them but their passive resistance failed every attempt of the reform party to remove such restrictions. The latter were sneered at as Anglicised Indians who had lost touch with the ordinary people and therefore untrust worthy in the matters or denounced as impracticable visionaries. Several officials went even so far as to say not only privately but in public that this ancient caste system was necessary to the stability of the society as it accustoms the people to order and obedience to authority and it is therefore in the interest of the Government to support that system. The non-Brahmin leaders felt therefore that very little could be hoped from officials to remove this caste restriction. These were the reasons, so far as I remember that determined the attitude of the non-Brahmin leaders then and I do not think those reasons have lost their force now.

I have already referred to a number of reforms that are long overdue and they are far more beneficial to the non-Brahmins than to the Brahmins. If the proposed reforms are carried out in their proper spirit and proper rules are framed, I have not the slightest doubt that the non-Brahmin higher Hindu castes will be gainers. I fail to see how they will be worse off.

26. In the case of the depressed classes the conditions are different. It is absurd to say that their position, so far as their material prospects are concerned, has improved under the British Government. It has steadily gone from bad to worse. To mention only a few instances, under the old custom they were entitled to free house-sites, materials free from the jungles for building their cottages, free pasturage and a fixed share of the produce of the land which they cultivated for their wages, which ensured a living wage. All these they have lost under the ryotwari system. With the ruin of the Indian industries also the non-agricultural labourers lost their fixed wages and they were involved in the ruin of their masters. The agricultural labourers suffered equally from the Government and the zemindars and the big ryots. The proposed reforms will not directly benefit them to the same extent as the superior non-Brahmin castes, but they are bound to share in the benefits which will accrue to the whole country if the reforms are carried out in the directions indicated and the poverty problem in particular is properly dealt with. Amongst them it is very doubtful whether representatives can be found in sufficient numbers to protect their interest against the higher castes. Brahmins and non-Brahmins who now lead the agitation in Madras and the planters and capitalists, but I think it is possible to devise rules which will enable them

materially to influence elections, or, to create electorates, to send their representatives to the Council. In any event, I am fully satisfied that this class cannot possibly be worse off under the proposed reforms while it is probable that their position can be improved, and it is certain that, if properly safeguarded, it will be improved.

27. I cannot agree with my Colleagues in their proposals in paragraph 23 about inspection and advice. According to them these officers are to inspect the operations of the Reserved and Transferred Departments, offer criticisms for the attention of the Governor to be called to the defects disclosed so that he might use his influence and authority to secure their removal. The authors of the Reforms Report have pointed out (see paragraph 118) that such official inspirations have increased the disposition to interfere in provincial details ; they further point out that a substitute for them, in future, should be found in the stimulus afforded by public criticism. Though the necessity of publicity and public criticism is recognised by my Colleagues in the paragraph above referred to. I have little doubt that the tendency again will be towards interference with the Transferred Departments and also with the Reserved Departments. It is the Government of India, as is recognised in the Reforms Report that have stood in the way of

Reforms which provincial Governments had been willing to carry out. I am for these reason, unable to support the recommendations of my Colleagues.

Considering the nature of these recommendations by my Colleagues, it appears to me that the further consideration of these questions should not be put off till the appointment of the Statutory Commission, and that the proposals in the Reforms Report empowering the Viceroy to transfer subjects if he thinks fit to do so, should be maintained.

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