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A Summary of the Report of the Joint
Title: Select Committee of Parliament
on the proposals contained in the
Stock No. 17833. White Paper on Indian
Constitutional Reforms.

L. L. Form No. 1. 20,960. G. P. 1126. 26-4-1123.

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PRESS SUMMARY.

In presenting their Report to Parliament the Joint Select Committee place on record their appreciation of the help derived from their discussions with the Indian delegates. Particular mention is made of the Joint Memorandum signed by all the British Indian delegates which is stated to have been of great service to the Committee as focussing British Indian views.

The principles of a constitutional settlement are discussed in an introductory section. The Committee note that the subtle ferments of education, the impact of the War and the growth of a sense of nationality have combined to create a public opinion in India which it would be a profound error for Parliament to ignore. Though those who entertain these aspirations constitute but a small fraction of the vast population of India and though in these circumstances alleged manifestations of public opinion are often of doubtful value, nevertheless a public opinion does exist strong enough to affect what has been for generations the main strength of the Government of India, that is, its instinctive acceptance by the mass of the Indian people. History has repeatedly shown the unwisdom of judging the political consciousness of a people by the standard of its least instructed class.

But a recognition of Indian aspirations, while a necessary preface to any study of Indian constitutional problems, is an insufficient guide to their solution. Responsible Government to which these aspirations are mainly directed today is not an automatic device which can be manufactured to specification. It is not even a machine which will run on a motive power of its own. Framers of written constitutions may be misled by deceptive analogies. The mere copyist of British institutions would fall into dangerous errors if he were to assume that an Act of Parliament can establish similar institutions in India merely by reproducing provisions found in the constitutional law of the United Kingdom. On these grounds the Committee hold that a Constitution Act for India must seek to give statutory form to "safeguards" essential to the proper working of Parliamentary Government, but which in Great Britain have no sanction save that of established custom; and when this is done it will remain true that Parliamentary Government in India may well develop on lines different from those at Westminster.

In affirming the view that constitutional development should be evolutionary, the Committee state that the safest hypothesis on which they can proceed, and the one most in accordance with British constitutional history, is that the future government of India will be successful in proportion as it represents not a new creation but the natural evolution of past tendencies.

The Committee suggest that from that point of view Parliament may well approach the first and basic proposal of founding the new constitutional system in India on the principle of Provincial Autonomy.

Far-reaching as is this constitutional change, it is not a break with the past. The Act of 1919 introduced a large measure of Responsible Government, and the governments thus established have been in operation more than a decade. The Committee agree with the Statutory Commission that a sense of responsibility can be acquired only by making men responsible politically for the effects of their actions, and their sense of responsibility must be weakened if the government functions in watertight compartments partitioned off by the Constitution. The Committee therefore endorse the proposal that in all Provinces dyarchy should be abolished and Ministers made generally responsible over the whole provincial field.

The enforcement of law and order and the maintenance of an upright administration are mentioned as the fundamental functions of government. While agreeing that provincial Ministers must be made responsible for their performance, the Committee note that it is well to remember what according to British practice is the nature of that responsibility. It is a responsibility which no executive can share with any legislature, however answerable it may be to that legislature for the manner of its discharge. That has been true of the relationship of the Government of India to Parliament in the past;

it must remain true of the relationship of provincial Ministers to provincial legislatures in the future. In the special circumstances of India it is appropriate that this principle of executive independence should be reinforced in the Constitution by the conferment of special powers and responsibilities on the Governor as the head of the provincial executive.

In discussing misunderstandings as regards safeguards both in England and India, the Committee observe that to many Englishmen the term conveys the idea of an ineffective rearguard action masking a position already evacuated; to many Indians it seems to imply a selfish reservation of powers inconsistent with any real measure of responsible government. Though too late to invent a new terminology, the Committee make it clear that they use the word in a more precise and quite different sense. On the one hand, the safeguards they contemplate have nothing in common with paper declarations sometimes inserted in constitutional documents dependent for their validity on the goodwill or timidity of those to whom the real substance of power has been transferred. They represent on the contrary a substantial power fully endorsed by law. They are not only not inconsistent with some form of responsible government, but in the present circumstances of India it is no paradox to say that they are the necessary complement to any form of it, without which it could have little or no hope of success. It is in exact proportion as Indians show themselves not only capable of taking and exercising responsibility, but able to supply the still missing factors in Indian political life that both the need for safeguards and their use will disappear. The essential elements in the new constitutional settlement which the safeguards should be designed to supply are the need for flexibility, for strong executives, for an efficient administration, and for an impartial authority to hold the scales evenly between conflicting interests. The success of a Constitution depends far more upon the manner and spirit in which it is worked than upon its formal provisions. It is impossible to foresee the exact lines which constitutional development will eventually follow. It is therefore the more desirable that those upon whom responsibility will rest should have all reasonable scope for working out their own salvation by the method of trial and error. In other words the new Indian Constitution must contain within itself the seeds of growth.

The Committee emphasise that Provincial Autonomy requires a readjustment at the Centre. To create autonomous units without any corresponding adaptation of the existing Central Legislature would in the Committee's opinion give full play to the powerful centrifugal forces of Provincial Autonomy without any attempt to counteract them and ensure the continued unity of India. The Committee express the view that the unity of India would be seriously endangered without a constitutional relationship between the States and British India. So far as the Committee are aware no section of opinion in England or British India is prepared to forego an All-India Federation as an ultimate aim of British policy. The question for decision is whether the measure of unity which can be achieved by an All-India Federation, imperfect though it may be, is likely to confer added strength, stability and prosperity on India as a whole, that is, both on the States and on British India. To this there can in the Committee's opinion be only one answer, an affirmative. The economic ties between British India and the States are discussed, and the Committee observe that when experience is daily proving the need for the close co-ordination of policies, they cannot believe that Parliament, while introducing a new measure of decentralisation in British India, would be wise to neglect this opportunity of establishing a new centre of common action for India as a whole.

The Committee state that the attraction of Federation to the States clearly depends on the fulfilment of one condition, that in acceding to the Federation they should be assured of a real voice in the determination of its policy. If the States are irked by the exercise by the present Government of India of powers in matters intimately affecting the States, their exercise by Ministers responsible to a purely British India electorate could hardly fail to lead to friction. The Committee agree with the Statutory Commission in thinking that a responsible British India Centre is not a possible

solution of the constitutional problem. They hold it one of the main advantages of an All-India Federation that it will enable Parliament to draw a line between responsibility at the Centre and reservation at the point most likely to provide a workable solution.

In concluding the introductory part of their Report the Committee comment that the plea put forward by Indian public men on behalf of India is essentially a plea to be allowed the opportunity of applying principles and doctrines England herself has taught. All sections of public opinion in England are agreed in principle that this plea should be admitted. No one has suggested that a retrograde step should be taken, very few that the existing state of things should be maintained unaltered. By general admission the time has come for Parliament to share its power with those whom for generations it has sought to train in the arts of government.

Having accepted the broad conclusions of Provincial Autonomy and an All-India Federation the Committee, while recognising that Provincial Autonomy must precede central change, state that the same Act should lay down a Constitution both for the Centre and for the Provinces, in order that the full intention of Parliament should be made clear. Federation is not left as a mere contingency of the future. The Committee advise that the interval between Provincial Autonomy and the inauguration of the Federation should not be longer than is necessitated by administrative considerations. As regards transitory provisions to cover the gap between Provincial Autonomy and Federation, the Committee observe that though it will be necessary to keep in being the existing Central Legislature and no change would be required in the Central Executive, it is nevertheless clear that the establishment of Provincial Autonomy will necessitate consequential changes in the powers of both the Central Legislature and Executive differing but little from the changes which will result from the establishment of Federation.

PROVINCIAL AUTONOMY.

General Plan.

The Committee endorse the general plan of the White Paper for a statutory delimitation of the respective spheres of government between the Central and Provincial Governments. However carefully the lists of subjects of legislation are drawn up including a list of subjects of concurrent jurisdiction, nevertheless a residue is inevitable. Accepting, the White Paper proposal, the Committee agree that the allocation of the residue should be left to the Governor-General.

The White Paper plan to create new Provinces of Sind and Orissa is approved, but it is recommended that the Orissa boundaries should be extended to include that portion of the Jeypore Estate recommended for transfer by the Orissa Committee of 1932 together with the Parlakimedi and Jаланtra Maliahs and a small portion of the Parlakimedi Estate including Parlakimedi town.

The Committee pay a tribute to the wise and farseeing action of His Exalted Highness the Nizam of Hyderabad in agreeing to the joint administration of the Berars with the Central Provinces. It is suggested that the Governor should have a special responsibility to secure the expenditure in the Berars of a reasonable share of the joint revenues.

PROVINCIAL EXECUTIVES.

In agreeing that dyarchy in the Provinces should be abolished the Committee endorse the proposal that over practically the whole of the provincial sphere the Governor should be amenable to the advice of non-official Ministers selected from the Legislature. The Committee approve the White Paper proposal that Ministers should advise the Governor in all matters other than the administration of Excluded Areas, and matters left to the Governor's discretion, for example, the power to withhold assent to legislation.

In view of the special difficulties in India in the way of unqualified majority rule as understood in Britain, the Governor may occasionally have to exercise on his own responsibility powers that in the United Kingdom would

be exercised on the advice of Ministers. The Committee generally approve the list of special responsibilities recommended in the White Paper, but make certain suggestions for their definition.

The Committee agree that for the discharge of his special responsibilities the Governor will need power to secure finance and legislation. The Committee, following generally the view taken in the Joint Memorandum of the British Indian delegates, propose a modification to emphasise the distinction between Governor's Acts and those of the Legislature.

LAW AND ORDER.

The responsibility of Ministers over the provincial field involves the transfer to Ministers of all departments of a Provincial Government, including those concerned with Law and Order. In order however to avoid the intrusion of political pressure into questions affecting the internal discipline of the Police Force, the Committee consider that the Governor's consent should be necessary to the amendment of Police Acts and certain Rules thereunder. It is also recommended that there should be special protection for secret intelligence reports.

In view of the special problem that may be presented by terrorism, the Committee consider that there should be a power in the Governor himself to assume charge to such extent as he may judge requisite of all anti-terrorist activities of Government. In the Committee's opinion it will be necessary to exercise this power forthwith in Bengal unless conditions have materially improved by the time of the introduction of Provincial Autonomy.

THE PROVINCIAL FRANCHISE.

The White Paper proposals for the Provincial Franchise are based on the Report of the Indian Franchise Committee. Their broad effect is to increase the electorate from 7 million including 315,000 women to 29 million men and 6 million women, *i. e.*, from 3 to 14 per cent. of the population. The Committee are satisfied that these proposals will produce a representative electorate, but make certain suggestion designed to increase the number of women electors. While rejecting indirect election by local groups the Committee do not preclude the possibility that it may become feasible later for some such change to be recommended by local legislatures for the approval of Parliament.

PROVINCIAL LEGISLATURES.

No change from the White Paper proposals is suggested in the composition of the Provincial Legislatures, except that, on the ground that conditions are substantially the same, second Chambers are proposed for Madras and Bombay in addition to Bengal, the United Provinces and Bihar.

The Committee consider that Provincial Upper Houses should not be liable to dissolution, but that one-third of the members should retire at fixed intervals.

COMMUNAL AWARD AND POONA PACT.

The Committee are definite in their opinion that communal representation is inevitable at the present time. They describe as well-thought out and well-balanced the arrangement for the composition of Provincial Assemblies embodied in the Communal Award.

As regards the Poona Pact, the Committee express the view that in their opinion the original proposals of His Majesty's Government were a more equitable settlement of the general communal question, and more advantageous to the Depressed Classes in their present stage of development. But, since the Pact has been accepted as an authoritative modification of the Award, the Committee are clear that it cannot now be rejected. They are, however, disposed to think that if by agreement some reduction were made in the number of seats reserved to the Depressed Classes in Bengal, possibly with a compensatory increase in the number of their seats in other Provinces, the working of the new Constitution in Bengal would be facilitated.

FEDERATION AND THE INDIAN STATES.

The special position of the Indian States in an All-India Federation is fully recognised. The Committee see in the declarations of their attitude by Rulers a recognition of the solid advantages not only to British India but to themselves of the entry of the States to Federation. The Committee emphasise the fact that the accession of State cannot take place otherwise than by the voluntary act of its Ruler. The Constitution Act will only prescribe a method whereby the State may accede and the legal consequences which would follow. In the words of the Report "there can be no question of compulsion so far as the States are concerned".

Themelves regarding the States as an essential element in an All-India Federation, the Committee accept the principle proposed in the White Paper that the accession of a sufficient number of States should be a condition precedent to Federation. They accept the White Paper proposal that the Federation should not come into existence until the Rulers of States representing not less than half the total population of the States and entitled to not less than half the seats allotted to the States in the Federal Upper Chamber have signified their desire to accede.

The Committee agree that representatives of the States in the Federal Legislature should be appointed by the Rulers of the States concerned. The White Paper ratio of representation between the States and British India is endorsed. The Report contains a scheme of distribution of States' seats which has been under discussion for some time past between the Viceroy and the Princes and which, while susceptible of minor adjustment, has met with a large measure of support among the States. The Committee comment that a scheme on these lines would be reasonable and appropriate. Arrangements are suggested for temporary weightage in compensation for non-acceding States.

While recognising that the list of subjects accepted by the Princes as federal may not be identical in every case, and while agreeing that there are States who will be able to make out a good case for the reservation of certain subjects, nevertheless the Committee consider that deviations from the standard list should be regarded as exceptional and not admitted as of course. They make it clear that there can be no obligation on the Crown to accept an accession, when the reservations desired by the Ruler would make such accession illusory.

The rights of paramountcy over the Indian States at present exercised on behalf of the Crown by the Governor-General in Council clearly could not be exercised by any federal authority. The Committee fully agree that outside the federal sphere the States' relations will be exclusively with the Crown, the right to tender advice to the Crown within this sphere lying with His Majesty's Government.

In dealing with the area of federal jurisdiction the Committee recommend that Aden should be transferred to the administrative control of His Majesty's Government on certain definite conditions not later than the date of Federation.

RESPONSIBILITY AT THE CENTRE.

The Federal Executive.

The Committee approve the proposals in the White Paper for the Federal Executive, namely, that the Governor-General with the assistance of not more than three Counsellors should administer the Departments of Defence, External Affairs, Ecclesiastical Affairs and British Baluchistan, and that in all other Departments he should be guided by the advice of Ministers chosen from the Federal Legislature, subject to his powers under "special responsibilities" which would follow generally those of the Provincial Governors except that the Governor-General would have a special responsibility for the financial stability and credit of the Federation. To assist him in the discharge of this special responsibility there would be a Financial Adviser whose services would also be available to the Federal Ministry. The Committee make it

clear that the Counsellors could not be Members of the Council of Ministers, but they agree that joint deliberation between Counsellors and Ministers should be encouraged.

The Committee do not concur in a proposal for a Statutory Committee of Indian Defence, but are of opinion that an advisory body similar to the Committee on Imperial Defence might have advantages. Neither do they think it necessary to set up a Statutory Defence Committee of the Legislature; but provided the extent and methods of consultation with the Legislature are understood to rest with the Governor-General, they see no objection to the formation of any Defence Committees that the Federal Government and Legislature may consider useful.

THE FEDERAL LEGISLATURE.

Indirect Election of British India Representatives.

The Committee accept the White Paper proposals regarding the size of both Houses, the ratio in each House between British India and States representatives, and the number of seats allotted to communities and special interests in the Lower House. The Committee think it important that the Muslim community should have secured to it, as the White Paper proposes, one-third of all the British India seats.

The Committee's proposals for the method of electing British Indian representatives to both Houses are an important departure from the White Paper scheme. The respective advantages and disadvantages of methods of direct and indirect election to the Federal Lower House are discussed. The Committee express themselves in favour of indirect election by the Provincial Lower Houses, the various communities voting separately for their own representatives. One of the reasons given for this preference is the apparent impossibility of retaining the direct system as the level of the franchise in course of time approaches adult suffrage.

On the other hand, the Committee feel strongly that it is not possible for Parliament to lay down today the exact method of constituting the Federal Legislature for any long period of time. They recommend therefore that indirect election should be open to future review and express the hope that if after experience has been obtained of the working of indirect election Indian opinion thinks modification required, the Federal Legislature should lay its own proposals before Parliament according to procedure for which provision is made in the Report. The Committee suggest that some form of indirect election based on a group system may provide the ultimate solution.

The Committee accept the White Paper principle of indirect election to the Council of State, but if Members of the Federal Assembly are elected by Provincial Assemblies, it is necessary to establish different electoral colleges. It is recommended that in the case of bicameral Legislatures the electing body should be the Provincial Upper House and in unicameral Provinces an electoral college should be formed of persons elected by an electorate corresponding to an electorate for Upper Houses in bicameral Provinces. As under the White Paper, election would be by single transferable vote. The Committee prefer that the Council should not be dissoluble. Its members should be elected for nine years and one-third replaced every third year.

THE PUBLIC SERVICES.

The Committee recommend that recruitment by the Secretary of State to the All-India Services should cease except to the Indian Civil Service and Indian Police. They cannot entertain any suggestion for a change in the system of recruitment to these two services simultaneously with a fundamental change in the system of government. They think, however, that there is much to be said for the recruitment in India of the Indian element in both those services. The Committee state that their recommendation is not intended to be a final solution, but is designed to secure the efficiency of the new constitutional machinery. The Committee agree that the whole matter should be the

subject of special enquiry at a later date. They deprecate any definite date prescribed in the Constitution Act, but hope it will be found of advantage to hold the enquiry after five years.

The Committee agree to the appointment by Provincial Governments to the Forestry and Irrigation services. As regards the latter, they suggest a power in the Secretary of State to resume recruitment in the event of Provincial Government failing to secure a sufficient number of satisfactory recruits. The proposals for Public Service Commissions are accepted as generally satisfactory. The Committee recommend that a reference should be included in the Instruments of Instruction of the Governor-General and Governors to the fact that the expression "the legitimate interests of minorities" includes their due representation in the Public Services.

THE JUDICATURE.

The Committee approve generally the White Paper proposals for a Federal Court.

The White Paper proposes to enable the Federal Legislature to establish a separate Supreme Court for the hearing of appeals from the Provincial High Courts in civil cases and criminal cases involving the death penalty. This would inevitably result in an overlapping of the jurisdiction of the Federal Court, and the Committee would prefer to deal with appeals in civil cases by empowering the Legislature to extend the jurisdiction of the Federal Court. The Court would then sit in two distinct Chambers, though the Judges might to some extent be interchangeable. As regards criminal cases, the Committee conclude that no provisions for appeal are required beyond those at present existing.

COMMERCIAL AND OTHER FORMS OF DISCRIMINATION.

The Committee divide this question into two separate issues—discrimination against British commercial interests and trade *in India*, and discrimination against British imports.

As regards the second of these issues, they point out that it would be of great advantage to define in the Constitution Act the principles already governing the relations of the two countries. They draw attention to the fact that the "Fiscal Autonomy Convention" would never have been invoked to cover an attempt to penalise British imports, and they note that the Indian Delegates have assured them that there will in future be no desire in India to destroy the conception of partnership with the United Kingdom by such attempts.

They recommend that to the special responsibilities of the Governor-General enumerated in the White Paper there should be added a further special responsibility defined in some such terms as follow:—"The prevention of measures, legislative or administrative, which would subject British goods, imported into India from the United Kingdom, to discriminatory or penal treatment". They further recommend that the Governor-General's Instrument of Instructions should make it clear that the imposition of this special responsibility is not intended to affect the competence of his Government and of the Indian Legislature to develop their own fiscal and economic policy; that they would possess complete freedom to negotiate agreements with the United Kingdom and other countries for the securing of mutual tariff concessions; and that it would be the Governor's duty to intervene in tariff policy only if in his opinion the intention of the policy contemplated was to subject trade between the United Kingdom and India to restrictions conceived, not in the economic interest of India, but having the object of injuring the interests of the United Kingdom.

As regards discrimination against British trade *in India*, here again statutory provision by way of reassurance is necessary.

The Committee accept the White Paper proposal that the Governor-General and Governors should have a special responsibility for the prevention of discrimination, but consider it should be made clear in the Act that this

responsibility would extend to the prevention of administrative discrimination in any of the matters in respect of which provision is made against legislative discrimination.

The Committee proceed next to lay down definite and detailed proposals under which Indian laws imposing certain conditions and restrictions should not apply to British subjects domiciled in the United Kingdom, to companies incorporated now or hereafter in the United Kingdom, or to British subjects domiciled in the United Kingdom who are connected with companies incorporated in India, now or in future. The Committee consider that these restrictions upon the freedom of Indian Legislatures should be capable of relaxation in so far as corresponding restrictions are imposed by United Kingdom laws upon British subjects domiciled in India. Similar but separate provision should be made for shipping, on account of the special status of shipping in law.

The Committee report on the question of the recognition of medical qualifications for registration purposes as between India and the United Kingdom. They note that the Indian Medical Council Act of 1933 provides for the recognition in India of British medical degrees for a period of four years, and they propose that after the expiration of that period there should be an appeal to the Privy Council in the event of either the Indian or United Kingdom authorities refusing recognition to the degrees granted by the other.

FUNDAMENTAL RIGHTS.

The Committee reject a proposal that the Constitution should contain a general declaration of the fundamental rights of the subject. But they think that the Act might contain a declaration providing that no British subject, Indian or otherwise, domiciled in India should be disabled from holding public office or from practising any trade, profession or calling by reason only of his religion, descent, caste, colour or place of birth; and it should be extended, as regards the holding of office under the Federal Government, to subjects of Indian States. They think also that there should be provision against expropriation of property except for public purposes.

CONSTITUENT POWERS.

With a Constitution mainly dependent for its success upon provisions to ensure a balance between conflicting interests, it is impossible at present to grant powers of constitutional revision to Indian Legislatures. At the same time it is essential to provide machinery to enable constitutional modifications to be made without amending Acts of Parliament, and the Committee consider that amendment on certain points should be permissible by Orders in Council to which Parliament has assented.

The Committee also consider that, subject to certain limitations and conditions, Resolutions by Indian Legislatures proposing modifications in the Constitution should be laid before both Houses of Parliament with a statement by His Majesty's Government of the action they propose to take.

THE SECRETARY OF STATE AND THE COUNCIL OF INDIA.

It would no longer be necessary with the transfer of responsibility for finance to Indian Ministers, that there should continue to be a body in the United Kingdom with a statutory control over the decisions of the Secretary of State in financial matters; nor ought the authority of the Secretary of State to extend to estimates submitted to an Indian Legislature on the advice of Indian Ministers. But it would still be desirable that the Secretary of State should have a small body of Advisers to whom he might turn for advice on certain matters.

The Secretary of State would be free to seek their advice, but would only be bound to consult them and accept their advice in respect of certain matters affecting the Public Services.

THE RESERVE BANK: RAILWAY ADMINISTRATION.

The Committee take note of the proposed establishment of a Reserve Bank, which should ensure the ability of India to maintain her financial stability and credit. They recommend that any amendment of the Reserve Bank Act, or any legislation affecting the constitution or functions of the Bank, or of the coinage or currency of the Federation, should require the Governor-General's prior sanction.

For the purposes of railway administration, it is proposed that, subject to the general control over policy of the Federal Legislature and Government, control should be vested in a Statutory Railway Authority working on business principles.

FEDERAL FINANCE.

A special section is devoted to an examination of the scheme of finance proposed in the White Paper, on which some suggestions are made as regards details. In commenting on the additional expenditure involved in the contemplated constitutional changes, the Committee express the opinion that, though no formidable new financial burden would be thrown on the taxpayers of India as the direct result of the changes proposed, the necessity for giving greater elasticity to provincial resources, subvention to deficit Provinces, and the separation of Burma will involve a further strain on finances at the Centre. In the Committee's opinion additional difficulties attributable to the change (and, such as they are, they relate mainly to Provincial Autonomy not to Federation) are but part of a financial problem which has in any case to be faced, and which as the Committee hope and believe is already in process of solution. The Committee observe that before the new Constitution actually comes into operation, His Majesty's Government will no doubt review the financial position and inform Parliament how the matter stands. It is suggested in the White Paper that at the last possible date there should be a financial enquiry. The Committee accept this as a suitable procedure, but do not conceive, nor do they understand that it is intended, that any expert body could be charged with the duty of deciding whether the position was such that the new Constitution could be inaugurated without thereby aggravating the financial difficulties to a dangerous extent. On this point Parliament must at the appropriate time receive a direct assurance from His Majesty's Government.

BURMA.

(1) *Introductory.*

Since the publication of the Indian White Paper, the Secretary of State for India has submitted to the Joint Committee proposals for a scheme of constitutional reform in Burma which may be referred to for convenience as the Burma White Paper. The Committee have also discussed the question with, and received memoranda from, a number of Delegates from Burma.

The Committee open this part of their Report with a brief account of the history of Burma, the characteristics of its people and of its geographical and economic features. They are particularly impressed by the isolation of the country, which makes it impossible for its needs to be duly comprehended in India or for it to exercise any appreciable influence upon Indian political opinion. The Committee recount the attempts that have been made in recent years to ascertain the opinion of the people of Burma on the question of the separation of their country from India, from the time when it seemed clear that they were almost unanimously in favour of separation to the time when certain political parties obscured the issue by announcing themselves as opposed to separation except on their own terms.

The Committee have satisfied themselves by discussion with anti-separatist Delegates that they have no desire to see Burma included in an Indian Federation, and in any case would only agree to such inclusion if Burma were given special financial and fiscal conditions incompatible with the fundamental ideas of federation, and the right to secede at will. No such claims could

be conceded, nor would they be accepted by the Delegates from India who have been associated with the Committee. The Committee's final conclusion follows that of the Statutory Commission that—"so far as there is public opinion in the country it is strongly in favour of separation".

In recommending the separation of Burma from India at the same time as the introduction of Provincial Autonomy in India, the Committee draw particular attention to the necessity of preserving Burma from injurious economic and financial results, and make their recommendation dependent upon statutory effect being given to a trade agreement to be concluded between the present Governments. Such an agreement should be limited to the shortest possible period which would allow the two Governments to adjust themselves to the new conditions, and should contain a provision allowing for mutually agreed alterations to be made during its currency. The Committee suggest 12 months as the minimum currency of the agreement, after which either party might denounce it on giving 12 months' notice, but subject to this minimum they would be prepared for the time-limits to be agreed upon between the present Governments of India and Burma. They further consider that with this agreement there might be linked, and likewise given statutory force, a convention in respect of the immigration of Indian labour into Burma.

THE BURMA WHITE PAPER.

The Committee note that inasmuch as the Government of a separated Burma would be a unitary government its constitution would differ in many respects from that proposed for the Indian Provinces. For example, no question would arise of the distribution of legislative powers. They also note that it is proposed that Burma should be excluded from the legal definition of "colonies".

THE EXECUTIVE.

The Committee preface their remarks with a statement making it plain that they intend the modifications that they suggest in the Indian White Paper to apply, *mutatis mutandis*, to corresponding proposals in the Burma White Paper. They therefore confine their attention in this section of the Report to necessary divergencies between the two White Papers, and to certain questions arising only in the case of Burma.

With one addition, the Departments proposed to be reserved to the Governor are the same as those proposed to be reserved to the Governor-General in India. The addition is monetary policy, currency and coinage. There would be no Reserve Bank in Burma, and the Committee agree to this addition to the list of the Governor's reserved Departments.

The Committee concur in the proposals that the Governor should be able to appoint three Counsellors and a Financial Adviser. But as the functions of the Financial Adviser would necessarily cover a wider field than those of his counterpart in India, they would not accept the White Paper proposal to allow the Governor to appoint one of his Counsellors to be Financial Adviser. In the interests of the Reserved Departments themselves, and in order to secure the confidence of Ministers, the Committee think it essential that the position of the Financial Adviser should be one of independence.

THE LEGISLATURE.

The White Paper proposes two Houses, a Senate of 36 members, 18 of whom would be elected by the Lower House and 18 nominated from among non-officials by the Governor, and a House of Representatives of 133 members. The Senate would not sit for a fixed term, but one-quarter of its members would retire every two years. The Lower House would have a life of five years unless sooner dissolved.

Detailed proposals for the composition of the Houses and the franchise have been submitted to the Committee by the Secretary of State for India (Records 1933-34, A. I. p. 10), and these are generally approved by the Committee subject to the following modifications.

The Committee do not think that a system of rotational retirements would effect the desired object of securing adequate representation to minorities, and they prefer that the Senate should have a fixed life of seven years, unless sooner dissolved in the Governor's discretion.

The Secretary of State's proposals for the composition of the Lower House provide for 119 general constituencies, of which 25 would be communal with separate electorates, and 14 special constituencies representative of commerce and labour. Communal representation exists at present, and is unfortunately necessitated by racial cleavages. Of the 94 non-communal general seats three are earmarked for women, but as separate seats are apparently not desired by the women of Burma, the Committee would propose to eliminate them and reduce the membership of the Upper House to a total of 130.

The Committee agree generally with the proposals for the franchise for the Lower House, which would increase the electorate from 1,956,000 men and 124,000 women to 2,300,000 men and 700,000 women, *i. e.*, from roughly 16 per cent. of the population to over 26 per cent. They reluctantly reject a proposal for wifehood franchise, which would increase the number of women voters to 2,000,000 and entail insuperable administrative obstacles.

SPECIAL SUBJECTS.

As regards Excluded and Partially Excluded Areas, the Committee note that the distinction between the two categories in Burma seems to be largely arbitrary, and they consider that the Government of Burma should examine the question *de novo*, with a view to establishing whether any of the areas proposed to be Partially Excluded, in particular the Salween District, should not in fact be classified as Wholly Excluded.

The White Paper proposals in respect of the Public Services and Public Service Commission are substantially the same as those made in the case of India, with additional recommendations to meet the position of officers of All-India and Central Services now serving in Burma, and the Committee generally approve them, including the proposal which would place the Burma Frontier Service under the sole control of the Governor in his discretion. As in India, recruitment for the railways should be made by the Statutory Railway Board which it is proposed to set up on lines similar to those of the new Indian Railway Authority, and the Committee consider that for the time being some recruitment by the Secretary of State of European Officers to the medical services would be necessary.

The Committee consider that both the education and employment of Anglo-Indians should engage the special attention of the Governor, and that regulations should be made laying down the percentage of appointments in the railways, customs service and posts and telegraphs, which could properly be reserved for this community.

The proposals made in a Memorandum of the Secretary of State for the establishment of a Railway Board in Burma are accepted, except in so far as the Committee consider that the Financial Adviser should not be a member of the Board, and make certain suggestions concerned with the proposed disqualifications for membership of the Board.

As regards the Secretaryship of State, the Committee think there should be separate portfolios for India and Burma, but that on practical grounds it would be desirable that they should be held by the same Minister.

As regards the necessary allocation of existing financial assets and liabilities between India and Burma, the Committee assume that the principles of the adjustment would have to be settled by an impartial tribunal, whose awards would be given statutory force by the Constitution Act. They think such a tribunal should be appointed as soon as possible.

COMMERCIAL AND OTHER FORMS OF DISCRIMINATION.

In so far as this is a matter between Burma and the United Kingdom, the Committee repeat their proposals made with reference to India and the United Kingdom.

As regards relations between Burma and India, the Committee agree that Indians should be afforded, *vis-à-vis* Burma generally, the same measure of protection as has been recommended for United Kingdom British subjects in India, but they think that the additional special responsibility to be laid upon the Governor to protect imports from India against penal treatment should be made reciprocal, and a similar responsibility in respect of imports from Burma laid upon the Governor-General in India.

The Committee agree that special provision should be made to enable the Burma Legislature to regulate the inflow of Indian labour, provided that such immigration legislation receives the prior consent of the Governor. Some arrangement would also be necessary to safeguard the position in Burma of holders of United Kingdom and Indian medical degrees, but pending further examination of the question the Committee do not put forward any definite proposals.

ADDENDUM.

The proceedings of the Committee indicate various points on which certain members of the Committee submitted proposals which were not accepted by the Committee. Among these, two are of special interest since they propose radical departures from the scheme propounded by the Committee as a whole.

The first of these takes the form of an alternative draft report presented by Mr. Attlee and supported by the three other Labour Members on the Committee. Accepting Dominion Status as the goal of policy, they recognise that it is not possible for India to reach this goal at a single step. They consider that this objective should be stated clearly in the Constitution Act so framed to contain possibilities of expansion and development as to enable Dominion Status to be reached without a further Act of Parliament. They desire that the Act should provide against exploitation of the masses and approach the need for safeguards primarily from that angle. They recognise that safeguards are required for minorities, and hold that for the time being it is impossible to avoid communal electorates. They consider it therefore not desirable at present to depart either from the Communal Decision or the Poona Pact. They are opposed to Second Chambers whether at the Centre or in the Provinces.

All-India Federation is accepted. It is considered essential if India is to be a nation that British India and the States should be associated. They recommend that a definite date be fixed in the Act for the inauguration of Federation which should not be contingent upon the entry of a prescribed proportion of States. They think the forces making for Federation so strong that it is certain that before long a majority of the States in numbers and population will accede. They agree that Parliament could not dictate to the Rulers of States the Constitution they should adopt, but think that at least from those States where representative institutions exist, representatives to the Federal Legislature should be chosen directly or indirectly by the people.

They agree that special responsibilities should be vested in the Governor-General and Governors, but hold that the White Paper proposals are drawn in too wide terms. They consider that these powers should be used only in an emergency when breakdown threatens and not be part of the ordinary operation of Government. They suggest that there should be recognised conditions under which the Governor-General's special responsibility for the financial stability and credit of the Federation should cease to be operative.

They consider that in the Provincial sphere Indians should be given the fullest opportunity of trying the British system of responsible government. They think, however, that at the Centre responsibility will develop on lines very different from those at Westminster. They contemplate that there should be a closer association of the Legislature with the Executive on lines adopted in the Ceylon Constitution. In their opinion there should be only one Legislative Chamber, directly elected, at the Centre, in which Labour should be given 26 instead of 10 seats.

It is considered that India should have full control over her external affairs except as regards the relationship of the Crown with the Indian States. The specific reservation of a Department of Ecclesiastical Affairs is opposed. They agree that so long as British troops are employed in India it is impossible to bring them under the orders of a responsible Minister. But, regarding this position as anomalous, they suggest a definite programme of Indianisation within a time-limit of 30 years, and a definite date in the Constitution at the end of which Defence should pass to responsible Ministers. A Standing Defence Committee of the Legislature is recommended.

In the Provinces the authors of the draft oppose any limitations on the power of elected Ministers to control the forces of law and order. The evil of terrorism should be dealt with by Indian statesmen backed by public opinion, which they should be able to rally to the support of their own government.

No reason is seen for the provision of special seats for landholders and the special representation of universities, commerce, industry and planting is opposed. Labour should receive at least 10 per cent. of the total seats pending the introduction of adult suffrage, provision for which should be made in the Constitution. Extensions of the women's franchise are suggested.

It is proposed that residuary powers of legislation should belong to the Centre.

They agree that the Act might contain a general provision that discriminatory legislation should require the previous consent of the Governor-General, but apart from that the question should be left to settlement by negotiation between the commercial interests concerned.

Recognising that there is still in India the need for British help in the Services, they are in general agreement with the White Paper proposals on that subject, but suggest that future recruitment to the Security Services should be by the Governor-General.

In conclusion, general agreement is expressed with the proposals regarding the future constitution of Burma, subject to an objection to a Second Chamber of the Legislature and the continuation of the Ecclesiastical Department, and to the hope that the maintenance of communal electorates may be only a temporary expedient.

A contrasting, but much briefer, amendment is submitted by Lord Salisbury and supported by Lord Middleton, Lord Rankeillour, Sir Reginald Craddock and Sir Joseph Nall. He is not prepared to concede Responsible Government in the Centre, but takes his stand on the grant of Provincial Autonomy, supplemented by the establishment of a Council of Greater India, containing representatives of every Province and State, the advice of which would be sought by the Viceroy on every issue which is of interest to India as a whole. In the Provinces the Governor is, according to this proposed amendment, to control the Police if he considers this to be expedient.



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