

Assent of Her Majesty in Council, or which have received the Assent of the Governor of the said Colony in the Name and on behalf of Her Majesty, shall be and be deemed to have been valid and effectual from the Date of such Assent for all Purposes whatever; provided that nothing herein contained shall be deemed to give Effect to any Law or reputed Law which has been disallowed by Her Majesty, or has expired, or has been lawfully repealed, or to prevent the lawful Disallowance or Repeal of any Law.

of South  
Australia  
to be valid.

### 3) Indische Verfassungskonferenz.

November 1930/Januar 1931. (Cmd. 3772 [1931]).<sup>1)</sup>

(Berichte der Unterausschüsse; Beschluß der Konferenz; Schlußrede des engl. Premierministers.)

#### Indian Round Table Conference.

##### *Introductory Note.*

The Indian Round Table Conference was inaugurated by His Majesty the King-Emperor at a public session in the Royal Gallery of the House of Lords on 12th November, 1930.

After the opening ceremony the Conference devoted five days in plenary session to a debate "on the question whether the future constitution of India should be on a federal or unitary basis." This general debate ranged over a wide field, but its most striking feature was declarations from delegates from the Indian States opening the way to the consideration of a new federal constitution for India, embracing both British India and Indian States.

On the conclusion of the general debate the Conference decided to set up a "Federal Relations Committee to consider the structure of a federal system of government in India as regards relations between Indian States and British India, and relations between Provinces of British India and the Centre, including the question of responsibility at the Centre, and to recommend the main principles to be applied."

It was, however, found more convenient to work through a Committee of the Whole Conference, instead of through this Committee, and the Committee of the Whole set up nine sub-Committees to consider the following questions: —

No.	Name of sub-Committee.	Subject or terms of Reference.	Page <sup>2)</sup>
I	Federal Structure ..	1. The Component elements of the Federation.	447
		2. The type of Federal Legislature and the number of Chambers of which it should consist.	447

<sup>1)</sup> Ein Gesamtverzeichnis d. engl. Regierungsdrucksachen zur Reform d. Indischen Verfassung von 1927 und ff. vgl. unten S. 500.

<sup>2)</sup> Anstelle der Seitenzahlen von Cmd. 3772 sind hier wie im folgenden die Seiten der Zeitschrift eingesetzt.

No.	Name of sub-Committee	Subject or terms of Reference.	Page
		3. The powers of the Federal Legislature.	448
		4. The number of members composing the Federal Legislature, and if the Legislature is of more than one Chamber, of each Chamber and their distribution among the federating units.	454
		5. The method whereby representatives from British India and from the Indian States are to be chosen.	454
		6. The constitution, character, powers and responsibilities of the Federal Executive.	454
II	Provincial Constitution	The powers of the Provincial Legislatures. The constitution, character, powers and responsibilities of the Provincial Executives.	476
III	Minorities .. ..	The provision to be made to secure the willing co-operation of the minorities and the special interests.	480
IV	Burma .. ..	To consider the nature of the conditions which would enable Burma to be separated from British India on equitable terms and to recommend the best way of securing this end.	483
V	North West Frontier Province.	To consider what modifications, if any, are to be made in the General Provincial Constitution to meet the special circumstances of the North West Frontier Province.	484
VI	Franchise .. ..	On what main principles is the Franchise to be based for men and women.	486
VII	Defence .. ..	To consider questions of political principle relating to Defence, other than strictly constitutional aspects to be considered by sub-Committee No. I.	489
VIII	Services .. ..	The relations of the Services to the new political structures.	491
IX	Sind .. ..	The question of constituting Sind as a separate Province.	496

The Reports of these nine sub-Committees are printed in the present volume on the pages<sup>3)</sup> shown above.

These Reports were received by the Committee of the Whole Conference and noted, together with the comments made on them in Committee of the Whole.

The Conference, after a final debate in plenary session ranging over the whole of its work, passed, unanimously, the Resolution (printed in full on page 497), accepting the Reports of the sub-Committees (and comments thereon in Committee of the Whole) as "material of the highest value for use in the framing of a constitution for India, embodying as they do a substantial measure of agreement on the main ground-plan."

<sup>3)</sup> Vgl. S. 443 Note 2.

The Prime Minister's closing speech on 19th January, 1931, containing a declaration on behalf of His Majesty's Government, is printed on pages 497 to 500.

Fuller papers, to be laid before Parliament shortly, will include the text of the debates in the Plenary Sessions, and the comments in the Committee of the whole Conference on the Reports of the sub-Committees<sup>4)</sup>. A supplementary volume will be made available, in due course, containing proceedings in the sub-Committees and the memoranda circulated to the Conference or its Committees.

22nd January, 1931.

### List of Delegates.

#### British Delegations.

Mr. Ramsay MacDonald.  
Lord Sankey.  
Mr. Wedgwood Benn.  
Mr. Henderson.  
Mr. Thomas.  
Mr. Lees Smith.  
Sir William Jowitt.  
Lord Russell.

Lord Peel.  
Lord Zetland.  
Sir Samuel Hoare.  
Hon. O. Stanley.

Lord Reading.  
Lord Lothian.  
Sir Robert Hamilton.  
Mr. Foot.

#### Indian States Delegation.

H.H. the Maharaja of Alwar.  
H.H. the Maharaja Gaekwar of Baroda<sup>5)</sup>.  
H.H. the Nawab of Bhopal.  
H.H. the Maharaja of Bikaner.  
H.H. the Maharaj Rana of Dholpur.  
H.H. the Maharaja of Jammu and Kashmir.  
H.H. the Maharaja of Nawanagar.  
H.H. the Maharaja of Patiala.  
H.H. the Maharaja of Rewa.  
H.H. the Chief Sahib of Sangli.

Sir Prabhaskar Pattani.  
Sir Manubhai Mehta.  
Sardar Sahibzada Sultan Ahmed Khan.  
Nawab Sir Muhammad Akbar Hydari.  
Sir Mirza M. Ismail.  
Col. Haksar.

#### British India Delegation.

H.H. the Aga Khan.  
Sir Ramaswami Aiyar.  
Maulana Muhammad Ali<sup>6)</sup>.  
Dr. Ambedkar.  
U Aung Thin.  
U Ba Pe.  
Srijut Chandradhar Barooah.

Mr. Basu.  
Sir Shan Nawaz Bhutto.  
Sir Hubert Carr.  
Mr. Chintamani.  
Nawab Sir Ahmad Said Khan.  
Maharaja of Darbhanga.  
Captain Raja Sher Muhammad Khan.  
Mr. Fazl-ul-Huq.  
Mr. Ohn Ghine.  
Mr. Ghuznavi.  
Lieut.-Col. Gidney.  
Sir Oscar de Glanville.  
Sir Ghulam Hussain Hidayatullah.  
Khan Bahadur Hafiz Hidayat Husain.  
Mr. Jadhav.  
Mr. Jayakar.  
Sir Cowasji Jehangir.  
Mr. Jinnah.

<sup>4)</sup> Vgl. Cmd. 3778 (1931).

<sup>5)</sup> Rev. Bahadur Krishnama Chari acted as delegate in absence of H.H. the Gaekwar of Baroda.

<sup>6)</sup> Died January 4th, 1931.

Mr. Gavin Jones.  
 Mr. Joshi.  
 Dr. Law.  
 Sir B. N. Mitra.  
 Sir Provash Chunder Mitter.  
 Mr. Mody.  
 Dr. Moonje.  
 Diwan Bahadur Ramaswami Mudaliyar.  
 Raja Narendra Nath.  
 Rao Bahadur Pannir. Selvam.  
 Raja of Parlakimedi.  
 Sir A. P. Patro.  
 Mr. Paul.  
 Nawab Sir Abdul Qaiyum.  
 Diwan Bahadur Ramachandra Rao.  
 Mr. Shiva Rao.

Sir Sayed Sultan Ahmed.  
 Sir Tej Bahadur Sapru.  
 Sir Muhammad Shafi.  
 Sardar Sampuran Singh.  
 Mr. Sastri.  
 Sir Chimānlal Setalvad.  
 Kunwar Bisheshwar Dayal.  
 Sir Phiroze Sethna.  
 Dr. Shafa'at Ahmad Khan.  
 Begum Shah Nawaz.  
 Rao Bahadur Srinivasan.  
 Mrs. Subbarayan.  
 Mr. Tambe.  
 Sardar Sahib Ujjal Singh.  
 Sir Edgar Wood.  
 Mr. Zafrullah Khan.

### Sub-Committee No. I. (Federal Structure.)

Interim Report presented at the Meeting of the Committee of the Whole Conference held on 16th December, 1930.

#### *Introductory.*

1. The sub-Committee<sup>7)</sup> was appointed to consider and report upon the following four of the Heads of discussion which were framed for the Federal Relations Committee:—

No. 1.—The component elements of the Federation.

No. 2.—The type of Federal Legislature and the number of Chambers of which it should consist.

No. 3.—The powers of the Federal Legislature.

No. 6.—The constitution, character, powers and responsibilities of the Federal Executive.

The sub-Committee thought that it would be for the convenience of the Conference to present an Interim Report dealing, in the first instance, with Nos. 1, 2 and 3 above. In view of the large issues raised by No. 6, which cannot be separated from those connected with the relation of the Federal Executive to the Crown (No. 12 of the Heads of discussion), it appeared to the sub-Committee that this Head, on the discussion of which they are proposing immediately to enter, should form the subject of a separate report.

2. The sub-Committee are in a position to report that a most encouraging degree of agreement on the matters comprised in Nos. 1, 2 and 3 has been secured. They recognise that any measure of federation involves for the States sacrifices in a sphere to which they have always attached the greatest importance for practical reasons as well as on grounds of existing treaties and sentiment. They recognise, on the other hand, the natural hesitation of the representatives of British India to accept any form of constitutional change which might be thought to endanger the unity of British India or those positive ad-

<sup>7)</sup> The composition of the sub-Committee is given on page 451.

vantages which are derived from a uniform body of law and administrative practice. All parties of the sub-Committee were unanimous in preferring the welfare of India as a whole to the individual claims of the interests they represent and in the conviction that only in the larger unity can the diversity of interests and policies be completely harmonised. The sub-Committee are not dismayed by the criticism which may perhaps be made upon their conclusions, that the links between some parts of the Federation and others are but slender. A new State is not born full grown; it must contain within itself the capacity for growth. The attainment of full maturity must depend upon the efforts and devotion of the statesmen of India herself from whatever territory they may come.

The sub-Committee's conclusions are as follows:—

### Conclusions.

#### *I. Component elements of Federation.*

3. The component elements of the Federation should be on the one hand

(a) the federating Provinces of British India, and on the other hand,

(b) such Indian States or groups of States as may enter the Federation. Provision should be made for the subsequent entry from time to time of such further States or groups of States as agree to enter the Federation.

The important question of the position of the Crown will require further examination when the relation of the Federal Executive to the Crown is discussed.

4. So far as British India is concerned, the federating organism will be neither the Government of British India as it exists at present, nor autonomous Provinces released from the central tie. The process of Federation will involve the creation of a new State which will derive its powers

(a) in part from the powers which the States will agree to concede to the Crown, to be placed at the disposal of the new Federation; and

(b) in part from the transfer to it of such of the powers of the Central Indian Government (and also it may be of the Provincial Governments) as may be agreed to be necessary for the purposes of the Federation.

#### *II. Type of Federal Legislature and the number of Chambers of which it should consist.*

5. The Federal Legislature should consist of two Chambers, each containing representatives of both British India and the States (the proportion which the representatives of British India and of the States

should bear to each other will be a matter for subsequent consideration under Heads not yet referred to the sub-Committee).

6. The method whereby the representatives of British India are to be chosen was not referred to this sub-Committee, but Their Highnesses made it clear that in their opinion the method by which the States' representatives should be chosen will be a matter for the States themselves. If and so long as there are any reserved subjects it will be necessary for the Crown to be represented in both Chambers.

7. Differences between the two Chambers might be determined either at a joint session or by other means, by vote, whether by a bare majority or otherwise being a question for discussion at a later stage.

### III. *Powers of the Federal Legislature.*

8. A list of subjects provisionally recommended as Federal subjects is appended. This list is framed on the assumption that the Federal Legislature will be clothed with power to legislate upon all the subjects included in it. The inclusion of certain subjects, e.g., Defence and External Affairs, was not specifically considered, since these subjects in particular, though not exclusively, raise the question of the relations between the Executive in India and the Crown—a matter not within the sub-Committee's terms of reference. It is of the essence of a Federal constitution that the enactments of the Federal Legislature acting within its legal scope should have full force and effect throughout all units comprised in the Federation.

9. Provision should be made by some constitutional procedure for additions from time to time to the list of Federal subjects.

10. In relation to Federal subjects a distinction is to be drawn between policy and legislation on the one hand and administration on the other. In some Federal systems there is a complete separation between Federal and State agency in the administrative as well as the legislative sphere, but in others the administration is entrusted, subject to certain Federal rights of inspection, etc., to the State authorities. The choice is a matter of convenience rather than of principle, depending upon conditions existing at the time of federation and the practical advantage or disadvantage of disturbing the *status quo*. For a variety of reasons there are cases in which States may desire to retain, in those matters in which they agree that the control of policy shall be federal, most of the administrative powers which they exercise at present, but in so far as they continue to exercise those powers, they will do so in conformity with a policy jointly determined and with regulations jointly formulated. Provided that the conditions for a harmonious evolution are established, it is an advantage that there should be a minimum of disturbance in the practical arrangements which already operate.

11. The precise delimitation of the functions of the Federal and State Governments respectively in these spheres will be a matter for settlement in respect of each subject by negotiation.

12. The sub-Committee are strongly of opinion that there should be only a single Legislature to deal with Federal subjects proper and with any subjects which cannot at present be either federalised or completely provincialised. Such a Legislature will no doubt contain representatives of units of the Federation which will not be concerned with some of the subjects with which it deals. But the partial acceptance of this anomaly is preferable to the difficulties and complications involved in any expedient for completely avoiding it, such as the creation of a separate British Indian Legislature with a separate Executive. How to deal with this anomaly will have to be considered at a later stage.

St. James's Palace,  
London.

12th December, 1930.

Appendix to Interim Report of Sub-Committee No. I.

Schedule of Subjects provisionally agreed to as "Federal" with notes.

N.B.—The enumeration is that of the present list of Central Subjects—Devolution Rules, Schedule I.

*Notes.*

5. Communications to the extent described under the following Heads, namely:—
  - (a) Railways (including railways to be constructed or acquired in future) Policy and Legislation to be Federal. Administration to be Federal to the extent of powers now exercised by the Railway Board.
  - (b) Aircraft and all matters connected therewith. Federal.
  - (c) Inland waterways ... .. Policy and Legislation to be Federal in respect of inland waterways affecting more than one unit. Federal for Legislation and policy.
6. Shipping and navigation, including shipping and navigation on inland waterways in so far as declared to be a Federal subject in accordance with entry 5 (c). Federal.
7. Lighthouses (including their approaches), beacons, lightships and buoys. Federal.
8. Port quarantine ... .. Federal so far as international requirements are concerned.
9. Ports ... .. Such ports to be Federal as are declared to be major ports by rule made by Federal Government or by or under Legislation by the Federal Legislature, subject in the case of Indian States to such extent as authority may be delegated by the States under a convention.
10. Posts, telegraphs, trunk telephones and wireless installations. Federal; but with such qualifications as may be necessary for the purposes of adjustment with the States in matters of detail.

11. Customs and salt ... ..	Salt: Federal. Maritime Customs: Federal, subject to special adjustments with Maritime States having regard to their treaties, agreements and engagements. Customs on external frontiers of Federal India to be Federal on the lines of maritime customs subject to the special case of Kashmir.
12. Currency and coinage ... ..	Federal, subject to adjustment with the States concerned of such rights as are not already conceded by them.
13. Public Debt of Federal India. (Power to raise Federal loans).	Federal.
14. Savings banks ... ..	Federal for policy and legislation regarding Post Office Savings banks.
15. Federal Audit ... ..	Federal.
17. Commerce, including banking and insurance.	Federal for policy and legislation.
18. Trading companies and other associations.	Federal for policy and legislation.
20. Development of Industries... ..	Development of Industries to be a Federal subject in cases where such development by Federal authority is declared by order of Federal Government, made after negotiation with and consent of the federating units.
21. Control of cultivation and manufacture of opium, and sale of opium for export.	Federal for policy and legislation.
22. Stores and stationery, both imported and indigenous, required for Federal Departments.	Federal.
23. Control of petroleum and explosives	Federal for policy and legislation.
24. Geological Survey of India ...	Federal.
26. Botanical Survey of India ...	Federal.
27. Inventions and designs ... ..	Federal for policy and legislation.
28. Copyright ... ..	Federal for policy and legislation.
29. Emigration from, and immigration into, India.	Federal.
31. Federal police organisation ...	Federal.
32. Traffic in arms and ammunition ...	Federal for policy and legislation.
33. Central agencies and institutions for research (including observatories) and for professional and technical training or promotion of special studies.	Federal as regards future agencies and institutions.
35. Survey of India ... ..	Federal.
38. Meteorology ... ..	Federal.
39. Census ... ..	Federal for policy and legislation the States reserving administration.
39a. All-India statistics ... ..	Federal.
40. Federal services ... ..	Federal.
44. Immovable property acquired and maintained at the cost of the Federal Government.	Federal.
45. The Public Service Commission ...	Federal for the purpose of Federal services.



Sub-Committee No. 1. (Federal Structure.)

Second Report, Presented at the Meeting of the Committee of the Whole Conference held on 15th January, 1931.

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1. *Introductory.*—The sub-Committee consisted of the following members:—

*British Delegations:—*

The Lord Chancellor (*Chairman*).  
 Mr. Lees Smith, M.P.  
 The Earl Peel.  
 The Right Hon. Sir. Samuel Hoare, Bart., M.P.  
 The Marquess of Reading.  
 The Marquess of Lothian.

*Indian States Delegation:—*

H.H. The Maharaja of Bikaner.

H.H. The Nawab of Bhopal.

Nawab Sir Muhammad Akbar Hydari, Hyderabad.

Sir Mirza M. Ismail, Mysore.

Colonel Haksar, Special Organisation, Chamber of Princes.

*British India Delegation:—*

The Right Hon. Srinivasa Sastri, Madras.

Sir C. P. Ramaswami Aiyar, Madras.

Diwan Bahadur Ramaswami Mudaliyar, Madras.

Mr. Jayakar, Bombay,

Mr. M. A. Jinnah, Bombay.

Sir Tej Bahadur Sapru, United Provinces.

Mr. T. F. Gavin Jones, United Provinces.

Sir Muhammad Shafi, Punjab.

Sardar Sahib Ujjal Singh, Punjab.

Sir Sayed Sultan Ahmed, Bihar and Orissa.

In addition, Sir B. N. Mitra attended most of the meetings of the sub-Committee and gave it the benefit of his advice and assistance.

2. It must be clearly understood that although agreement has been reached by a majority of the sub-Committee on many important matters, such agreement is only provisional, and every member followed the example of Lord Reading, who said that the understanding had been from the outset that it would be open to all members, when they came to consider the complete proposals for the Federal constitution, to modify or change any provisional assent they might have hitherto given. Every member of the sub-Committee reserves to himself the right of modifying his opinion before the final picture is completed. This is the attitude of British and Indian members alike. Over and above that, upon the basic assumption set out in paragraph 8, Lord Peel and Sir Samuel Hoare, with the information at their disposal, and with so many questions still undecided, are unconvinced that the kind of Executive envisaged in this Report can be successfully adapted to the special conditions of an All-India Federation. They, therefore, desire to see further explored methods for increasing Indian control over the Federal Government that are better suited to All-India needs than those founded upon British precedents. Apart from this Lord Peel and Sir Samuel Hoare are not satisfied that the safeguards recommended for securing Imperial obligations will prove effective, and, in particular, they fear that the financial proposals outlined in paragraphs 18 to 22 inclusive will disturb the confidence of the commercial classes and impair the stability of Indian credit. They wish, however, to place on record their appreciation of the progress that has been made in the elucidation of a contentious and difficult problem, and their readiness to co-operate with sympathetic and unprejudiced minds in its further investigation.

Upon the question of finance, Indian opinion was that even the safeguards set out in the Report went too far, especially those giving special powers to the Governor-General.

3. The vexed Hindu-Muslim question was referred to by Sir Muhammad Shafi on behalf of the Muslim Delegation, and he made it clear that as far as he was concerned he could not consent finally to frame any constitution unless the Hindu-Muslim question was settled. To this view Mr. Jinnah gave his adherence, on the ground that no constitution would work unless it embodied provisions which gave a sense of security to the Muslims and other minorities. He further objected to some details of the Report. Other Delegates, again, stated that their final opinion upon details was not yet formed, and that they desired, before they came to a conclusion, to ascertain public opinion upon such details, both in India and in England.

4. The Indian States do not desire either to discuss or vote upon questions which concern British India alone, and are of opinion that these questions should be definitely excluded. Nor do the Indian States contemplate that any question of paramountcy will come at any time within the purview of the Federal Government.

The sub-Committee publish the Report subject to these reservations.

5. In their interim Report of 12th December, the sub-Committee indicated their view of the component elements of the Federation, which is contemplated as the future polity for India, and recommended that these elements should be represented in both Chambers of a bi-cameral Federal Legislature. They also put forward a provisional list (which is reproduced in the Appendices referred to in paragraph 37 of this Report) of the subjects upon which this Legislature should be empowered to pass laws having application throughout all units comprised in the Federation. In a later part of the present Report it will be the duty of the sub-Committee to supplement the provisional recommendations thus made with regard to the competence of the Federal Legislature. There are some matters which, although the Federal Government and Legislature will not at present have jurisdiction in respect of them in the Indian States, will none the less require co-ordination in the areas comprised by the British Indian units of the Federation. These subjects also are indicated in the Appendices referred to in paragraph 37 of this Report. The sub-Committee desire in this connection to emphasise once more the conviction, to which they gave expression in paragraph 12 of their previous Report, that it is the Federal Legislature itself which should perform this co-ordinating function. Their reasons for this view are in part the desire to avoid the inevitable complexities which would arise from setting up a separate authority to deal with subjects not completely federalised, but an even more important reason is that it is, in the sub-Committee's opinion, essential to the development of the Federal idea that the new constitution should contain within itself facilities for its own development, and that nothing should be done in designing the structure embodying it which would be calculated to hamper the natural evolution of a Greater India.

The further Heads which were referred to the sub-Committee and are now under discussion are:—

(4) *The number of members composing each Chamber of the Federal Legislature, and their distribution among the federating units;*

(5) *The method whereby representatives from British India and from the Indian States are to be chosen; and*

(6) *The constitution, character, powers and responsibilities of the Federal Executive.*

These three Heads the Sub-Committee now proceed to discuss.

6. The sub-Committee do not, of course, claim to have evolved in all its details a complete plan for the Federal constitution. They consider that the best service they can render to the Conference is to state certain general principles and record conclusions on certain points with regard to which there appeared to be general or substantial agreement, and then to indicate the lines which further detailed examination on the subject ought, in their view, to follow. Many points have necessarily been left open which will have to be settled later after public opinion both in India and in England has had an opportunity of expressing itself upon them, in order that the completed constitution may be based on the largest measure of public approval in both countries.

### The Executive.

7. The sub-Committee consider that it will be convenient to deal, in the first instance, with the last of the three Heads, namely:

*Head (6). The composition, character, powers and responsibility of the Federal Executive:* since, as was more than once pointed out in the course of their deliberations, the view taken upon these matters may materially affect decisions upon the structure of the Legislature, the nature of its functions and the methods adopted for enabling these functions to be performed.

8. *Responsibility of the Executive.*—The Report which follows proceeds on the basic assumption that the constitution will recognise the principle that, subject to certain special provisions more particularly specified hereafter, the responsibility for the Federal Government of India will in future rest upon Indians themselves.

9. *Method of providing for this.*—In the opinion of the sub-Committee the proper method of giving effect to this principle is, following the precedent of all the Dominion constitutions<sup>8)</sup>, to provide that executive power and authority shall vest in the Crown, or in the Governor-General as representing the Crown, and that there shall be a Council of Ministers appointed by the Governor-General and holding office at his pleasure to aid and advise him. The Governor-General's Instrument of Instructions will then direct him to appoint as his Ministers

<sup>8)</sup> e.g. Ss. 9 to 11 of the British North America Act, 1867;

Ss. 8 and 9 of the Union of South Africa Act, 1908;

Ss. 61 and 62 of the Commonwealth of Australia Constitution, 1900.

those persons who command the confidence of the Legislature, and the Governor-General, in complying with this direction, will, of course, follow the convention firmly established in constitutional practice throughout the British Commonwealth of inviting one Minister to form a Government and requesting him to submit a list of his proposed colleagues.

10. *Definition of Responsibility.*—The Governor-General, having thus chosen as his Ministers persons who possess the confidence of the Legislature, it follows that they will retain office only so long as they retain that confidence. This is what the sub-Committee understand by the responsibility of Government to Legislature, in the sense in which that expression is used throughout the British Commonwealth. The expression also implies in their view that the ministry are responsible collectively and not as individuals, and that they stand or fall together.

11. *Safeguards.*—It is, however, admitted that this broad statement of the principle of responsible government at the Centre, which will be the ultimate achievement of the constitution now to be framed, requires some qualification. There was general agreement in the sub-Committee that the assumption by India of all the powers and responsibility which have hitherto rested on Parliament cannot be made at one step and that, during a period of transition—

(i) The Governor-General shall be responsible for Defence and External Relations (including relations with the Indian States outside the federal sphere) and that

(ii) in certain situations, hereafter specified, which may arise outside the sphere of those subjects, the Governor-General must be at liberty to act on his own responsibility, and must be given the powers necessary to implement his decisions.

12. *Governor-General's advisers on reserved subjects.*—It was generally agreed that the presence of a person occupying the position of a Minister would be necessary to express the views of the Governor-General on Defence matters in the Legislature, since these will impinge upon strictly federal matters; the same is true of External Relations but there was not an equal measure of agreement with regard to the appointment of a person to represent the Viceroy in this latter subject. It is clear, however, that the Governor-General must be at liberty to select as his representatives in the reserved sphere any persons whom he may himself choose as best fitted for the purpose, and that on appointment they would, if holding Ministerial portfolios, acquire the right like other Ministers of audience in either Chamber of the Legislature. The suggestion was pressed that any persons so appointed should be regarded as ordinary members of the Council of Ministers, notwithstanding that they would be responsible to the Governor-General and not to the Legislature, and that they should be regarded as liable to dismissal (though they would remain eligible for re-appointment by the Governor-General) with the rest of their colleagues. It is difficult, however, to see how this position could be reconciled with the principle of the collective

responsibility of Ministers, and the sub-Committee find themselves unable to come to any definite conclusions on the matter, though they are of opinion that it merits much more careful examination than they have, in the time at their disposal, been able to give to it.

13. *Position of the Governor-General in relation to his Cabinet.*—With this subject is to some degree involved the question of whether the Governor-General should himself preside over the meetings of his Ministers. In the view of the sub-Committee no hard and fast rule can be laid down. It is clear that, especially in the transition period, occasions may often arise in which his presence would be desirable, and indeed, in certain contingencies, necessary. In these circumstances, it appears to the sub-Committee that the better course would be to provide in his Instructions that he shall preside when he thinks it desirable to do so, leaving the matter to his own discretion and good sense. It is, however, essential that the Governor-General shall be kept at all times fully informed of the state of public affairs and have the right to call for any papers or information which are at his Ministers' disposal.

14. *Governor-General's powers in relation to reserved subjects.*—It follows from the fact that the Governor-General will be himself responsible for the administration of the reserved subjects described above, that he should not be dependent for the supply required for them upon the assent of the Legislature, and that the annual supply for their service should be treated, along with other matters to be presently specified, in a manner analogous to the Consolidated Fund Charges in the United Kingdom. The budget allotment would be settled upon a contract basis for a term of years. It would further be necessary to empower the Governor-General in the last resort to take such steps as may be necessary to ensure that the funds required for the reserved subjects are forthcoming, and also to secure emergency supply for these subjects in excess of the contract budget (e.g., in connection with a sudden outbreak of hostilities on the Frontier). It follows that he should be empowered to secure the enactment of such legislative measures as may be essential for the discharge of his responsibility for these subjects.

15. The sub-Committee anticipate that in the event of its becoming necessary to use these powers the Governor-General would not ordinarily do so without consulting his Ministers, even though the responsibility for any action taken will be his and not theirs.

16. *Governor-General's special powers.*—With regard to subjects in the administration of which the Governor-General would normally act on the advice of his Ministers, it was generally agreed that arrangements must be made whereby in the last resort the peace and tranquillity of any part of the country must be secured, serious prejudice to the interests of any section of the population must be avoided, and members of the Public Services must be secured in any rights guaranteed to them by the constitution. It was further agreed that for these purposes

the Governor-General must be empowered to act in responsibility to Parliament and to implement his decisions if occasion so demands by requiring appropriation of revenue to be made, or by legislative enactment.

17. *Use of the Governor-General's special powers.*—Stress was laid in some quarters of the sub-Committee on the necessity of so defining the use of these powers that they should not be brought into play, in derogation of the responsibility of Ministers, for the purpose of day-to-day administration. It is obvious that the Governor-General would consider his relations with his Ministers and the Legislature before making use of these powers. He will have every inducement to stay his hand as long as possible and to be slow to use his own powers in such a way as to enable his Ministers to cast upon him a responsibility which is properly theirs.

18. *Finance. Special provisions.*—In the sphere of Finance, the sub-Committee regard it as a fundamental condition of the success of the new constitution that no room should be left for doubts as to the ability of India to maintain her financial stability and credit, both at home and abroad. It would therefore be necessary to reserve to the Governor-General in regard to budgetary arrangements and borrowing such essential powers as would enable him to intervene if methods were being pursued which would, in his opinion, seriously prejudice the credit of India in the money markets of the world. The sub-Committee recommend, with a view to ensuring confidence in the management of Indian credit and currency, that efforts should be made to establish on sure foundations and free from any political influence, as early as may be found possible, a Reserve Bank, which will be entrusted with the management of the currency and exchange. With the same object again, provision should be made requiring the Governor-General's previous sanction to the introduction of a Bill to amend the Paper Currency or Coinage Acts on the lines of Section 67 of the Government of India Act. They are further agreed that the service of loans, with adequate provision for redemption, by Sinking Funds or otherwise, and the salaries and pensions of persons appointed on guarantees given by the Secretary of State, should be secured, along with the supply required for the Reserved Departments, as Consolidated Fund Charges.

19. With these limitations the sub-Committee do not contemplate any differentiation between the position of the Finance Minister and that of any other Minister responsible to the Legislature, and in regard to taxation, fiscal policy and expenditure on objects other than those under the Governor-General's control, he would be responsible only to the Legislature. In this connection the sub-Committee take note of the proposal that a Statutory Railway Authority should be established, and are of opinion that this should be done, if after expert examination this course seems desirable.

20. The sub-Committee recognise that it may be difficult in existing conditions to set up a Reserve Bank of sufficient strength and equipped

with the necessary gold and sterling reserves immediately, and that, therefore, until this has been done some special provisions will be found necessary to secure to the Governor-General adequate control over monetary policy and currency.

21. *Governor-General's ordinary powers.*—The sub-Committee assume that in addition to the special powers indicated above the Governor-General will continue to have, as at present, the right of refusing his assent to legislative measures, and of returning a Bill for reconsideration, and, subject to any Instructions issued to the Governor-General, that the existing powers of reservation and disallowance will remain.

22. *Bills affecting religion and Commercial discrimination.*—The question whether Bills relating to such matters as the religion or religious rites and usages of any class of the community should require the Governor-General's previous sanction to introduction will require consideration, as will also the question of discrimination between different sections of the community in matters of trade and commerce. There was general agreement that in these matters the principle of equality of treatment ought to be established, and various methods were suggested for the purpose. The sub-Committee content themselves, however, with saying that it is one which should be further examined and discussed in consultation with the various interests concerned.

23. *Breakdown of Constitution.*—In the event of a situation unhappily arising in which persistent and concerted action has succeeded in making the constitution unworkable, adequate powers will have to be vested in the Governor-General for the purpose of enabling the King's Government to be carried on.

### The Legislature. Structure and Composition.

24. Such being their views as to the character and responsibility of the Executive, the sub-Committee are now in a position to consider in relation to these views—

(4) *the number of members composing each Chamber of the Federal Legislature; and their distribution among the federating units: and*

(5) *the method whereby the representatives from British India and from the Indian States are to be chosen.*

25. *General Principles.*—The general aim of Federal constitutions has been to provide one legislative chamber which represents primarily all the federating units as such, often on a basis of equal representation for each unit, and a lower chamber which represents, primarily, the population of the whole federal area: and in applying this plan, constitution-makers have commonly provided that the representatives of the federating units in the distinctively federal chamber shall be chosen by the Governments or Legislatures of those units, while the representatives of the population of the federal area shall be returned by some more popular form of election: it has commonly been provided



further that the distinctively federal chamber should be the smaller of the two. But India's own practical needs and conditions must be the governing factors, and no constitution, however theoretically perfect, and however closely modelled upon precedents adopted elsewhere, is likely to survive the tests of experience unless it conforms to the needs and genius of the country which adopts it, and unless it is capable of adaptation and modification as the character of these needs is proved in the working. To meet these needs the federal organisation must be conceived not as a rivalry of conflicting elements, but as a partnership for the devising and efficient application by common consent of policies required in the common interest. For such a partnership the stability of the Federal Government is of the first importance.

26. *The Upper Chamber.*—The discussion which took place in the sub-Committee on Heads 4 and 5 proceeded without any prior decision upon the all-important question of the relations between, and the respective powers of, the two chambers; and it may well be that some of the opinions now provisionally expressed will require revision. But proceeding simply on the basis that there will be two Chambers, the Upper smaller in size than the Lower, and without any decision as to the relations of one to the other, the balance of opinion was to the effect that the Upper Chamber—which might be described as the Senate—of the Federal Legislature should be a small body, of from 100 to 150 members, whose qualifications should be such as will ensure that it is a body of weight, experience and character. It was thought that this object might be secured by prescribing for the candidature of the British India members qualifications similar to those now in force for the Council of State: and the sub-Committee have no doubt that the Rulers of the Indian States, in selecting their representatives, will ensure that they are persons of similar standing.

*Method of election to Upper Chamber.*—The sub-Committee are almost unanimously of opinion that the British Indian members of the Senate should be elected by the provincial legislatures, by the single transferable vote.

27. *Life of the Upper Chamber.*—The Senate itself should not be subject to dissolution like the Lower House, but a fixed proportion of its members would retire and be replaced (or re-elected as the case may be) at regular periods.

28. *Distribution of Seats in Upper Chamber.*—As regards the distribution of seats in the Senate between the States and British India respectively, the sub-Committee have to report a difference of view. The States representatives on the sub-Committee pressed strongly for equality of distribution as between the States and British India. The British Indian representatives, on the other hand, were disposed to claim, on such grounds as area and population, a preponderance of seats for British India; but though opinions differed as to the precise degree of "weightage" to be conceded to the States, the sub-Committee are unanimous that some "weightage" must be given, and that a distri-

bution of seats as between the States and British India on a strict population ratio would neither be defensible in theory nor desirable in practice. The sub-Committee trust that if the Conference fails to reach unanimity on this point, a satisfactory solution may yet be found as the result of discussion and accommodation hereafter.

29. *Distribution of Seats in Upper Chamber between Provinces.*—Granted a solution of this question, it has still to be considered how the seats available to the States and British India respectively are to be distributed amongst the individual units of each class. So far as the States are concerned, this must clearly be a matter for agreement by their Rulers in consultation between themselves and, if necessary, with the Viceroy. Difficult problems of grouping are involved, but these matters are outside the scope of the Conference. As regards the Provinces, precedents of other Federal constitutions could no doubt be cited in favour of complete equality as between Province and Province, and there was some opinion in the sub-Committee in favour of this plan. But while the opportunity should no doubt be taken for departing from the traditional apportionment as between Province and Province which has survived in the Chambers of the existing Indian Legislature, the sub-Committee are doubtful whether an arrangement which gave, for instance, to Assam with its  $7\frac{1}{2}$  millions of inhabitants, and Bengal with its  $46\frac{1}{2}$  millions, an equal voice in the counsels of the Nation, would commend itself to general public opinion. On the whole the sub-Committee would be disposed to regard a distribution as between Province and Province on a population ratio as the most convenient and satisfactory arrangement.

30. *The Lower Chamber—Size.*—The trend of opinion as to the size of the Lower Chamber was that it should consist of approximately 300 members, thus providing roughly one representative for each million of the inhabitants of India. On the other hand the view was strongly expressed that the requirements of efficiency would not be met if the Chamber were to exceed 200 as a maximum. The sub-Committee as a whole recognise the force of these considerations, and also of the desire for a Chamber of sufficient size to afford a reasonable approach to adequate representation of the population. But since no real approach to this latter ideal could be secured without enlarging the Legislature to an undue extent, the sub-Committee think that having regard to the great importance which must be attached to efficiency of working, 250 should be adopted as the number of seats to be provided in the Lower Chamber.

31. *Distribution of Seats in the Lower Chamber.*—In the Lower Chamber the Indian States Delegation do not claim, as they do in the Senate, equality of representation with British India, but here also they claim some greater representation than they would obtain on a strict population ratio. The British Indian representatives on the sub-Committee were not, however, disposed to contemplate a distribution as between themselves and the States in this Chamber on any

other basis than that of population. On this basis approximately 76 per cent. of the seats would be assigned to British India and 24 per cent. to the States. But while the latter view must be recorded as that of the majority of the sub-Committee, a substantial minority would regard so great a disparity between the two classes of units as inconsistent with and inimical to the ideal which the Conference has set before itself, and the minority wish strongly to urge upon their colleagues the desirability of subordinating theory to expediency in the interests of goodwill. No Conference can hope to bear fruit unless its members approach their task in a spirit of accommodation, and accommodation in this matter is, they are confident, not beyond the reach of Indian statesmanship.

The question of the respective powers of the two Chambers, which has been touched upon in para. 26 has also an obvious bearing on the matter.

32. *Method of election to Lower Chamber.*—Here again the sub-Committee regret that they are unable to record a unanimous view. The British Indian representatives almost without exception favour direct election by constituencies arranged on a plan generally similar to that of the "general constituencies" for the existing Legislative Assembly. They maintain that this method of election has not proved in practice inconvenient or unworkable, that such inconvenience as it has hitherto presented will be diminished with the increase which they contemplate in the number of seats available and the consequent decrease in the size of constituencies, that ten years' experience has firmly established it in popular favour, and that resort to any method of indirect election would not be accepted by Indian public opinion. Other members of the sub-Committee are unable to contemplate as a fitting repository of power and responsibility a Chamber whose members would have so exiguous a link between themselves and the population of the areas they would purport to represent as would be provided by any system of direct election. Assuming for the sake of argument that as many as 200 seats were available for British Indian representatives, they note that the average size of a constituency would be some 4,000 square miles, and that if due allowance is made for the comparatively small areas of the urban constituencies, the general average would be even higher. They note that the Franchise sub-Committee have refrained from making any recommendation on the franchise for the Federal Legislature: consequently they cannot bring themselves to regard as popular representation according to the accepted canons of parliamentary government a system which provides for the "election" of members by an average number of some 5,000 electors scattered over an average area of some 4,000 square miles, and this difficulty would not be removed by an increase in the average number of electors by a lowering of the franchise; for an increase in the number of the voters in such vast constituencies would merely increase the difficulties of establishing contact between the candidate and the voter. But apart

from these practical difficulties, some members of the sub-Committee feel strongly that, in the geographical conditions of India, any system of direct election would seriously prejudice the success of the Federal ideal. In their view it is of the utmost importance that the tie between the Centre and the units should be as closely knit as possible; and that it should be a tie of natural affinity of outlook and interest and capable of counteracting the centrifugal tendencies which, but for such a counterpoise, will be liable to develop in the Provinces from the increased autonomy now in prospect. In the opinion of those who hold this view the only satisfactory basis for representation in either Chamber of the Federal Legislatures is election by the Legislature of the Provinces. This need not involve the mere reproduction of the Lower Chamber on a smaller scale, if, as is suggested in this Report, special qualifications are prescribed for membership of the Senate. But if this plan is not adopted, and the view prevails that the members of the Assembly should be chosen to represent the populations of the units rather than their Governments or Legislatures, those members of the sub-Committee who are opposed to direct election desire to point out that it is not a necessary consequence of a decision in this sense that the populations of the areas should elect their representatives directly. Various devices are known to constitution-makers as alternatives to direct election, and they would strongly urge that every possible alternative should be explored before a final decision is taken.

33. *Life of the Lower Chamber.*—The sub-Committee are of opinion that the term of the Lower Chamber should be five years, unless sooner dissolved by the Governor-General.

34. *Representation of special interests and of the Crown in Federal Legislature.*—Two further points remain to be mentioned in regard to the composition of the Federal Legislature. Opinion was unanimous in the sub-Committee that, subject to any report of the Minorities sub-Committee, provision should be made for the representation, possibly in both Chambers, and certainly in the Lower Chamber, of certain special interests, namely, the Depressed Classes, Indian Christians, Europeans, Anglo-Indians, Landlords, Commerce (European and Indian) and Labour. Secondly, in their interim Report, the sub-Committee expressed the view that so long as there are any reserved subjects the Crown should be represented in both Chambers. While the sub-Committee unanimously maintain that recommendation, further discussion has disclosed a difference of view as to the functions of the Crown nominees, and as to their numbers. Some members of the sub-Committee consider that their attendance should be solely for the purpose of explaining the Governor-General's policy on his behalf, and that they should not exercise the right to vote in divisions. Others are of opinion that these persons should be full members of the Legislature. Some members of the sub-Committee consider again that the only nominees of the Crown should be the principal advisers of the Governor-General in the administration of the reserved subjects, while others think that the Governor-

General should be empowered to nominate a specified number of persons, not exceeding, say, 10, to each Chamber.

35. *Means of securing stability for the Executive.*—The relation of the two Chambers to one another has been touched on above, but a particular aspect of the relation of the Chambers to the Executive was a subject of discussion in the sub-Committee and should be mentioned here. For the purpose of securing greater stability to the Executive the suggestion was made, and found a large measure of support, that Ministers should not be compelled to resign save in the event of a vote of no confidence passed by a majority of at least two-thirds of the two Chambers sitting together. Ministers against whom less than two-thirds of the votes have been cast on a motion of no confidence would not, however, for that reason alone continue to enjoy to any greater extent than before the confidence of the Legislature who would be still able in other ways to make effective their want of confidence. But the sub-Committee are of opinion that some means should be devised whereby, in the interests of stability, an adverse vote should not on every occasion necessarily involve the resignation of the Ministry, and that the subject should be further explored.

36. *Position of States' representatives in relation to matters affecting British India only.*—Since the functions of the Federal Government will extend beyond the range of federal subjects and will embrace those matters which are strictly the concern of British India alone, it has to be decided whether the States' representatives in the Federal Legislature should take any part in the debates and decisions on this latter class of matters with which *ex hypothesi* they will not be directly concerned. There is much to be said in favour of treating all members of the Federal Legislature as entitled and empowered to contribute their share towards the decision of all matters within the range of the Legislature's duties. It would be clearly impossible, so far as the Executive is concerned (which will, like the Legislature, be composed of representatives of both States and British India) to differentiate the functions of Ministers in such a way as to confine the responsibilities of States' representatives to Federal matters; no workable scheme could be devised with this object which would not cut at the root of the principle of collective responsibility in the Cabinet. For this reason the States desire—with the general assent of the sub-Committee—that their representatives in the Legislature should play their part equally with their British Indian colleagues in expressing the decision of the Legislature on any question which involves the existence of the Ministry, even if the matter which has given rise to the question of confidence is one which primarily affects British India only. At the same time Their Highnesses would prefer that the States' representatives should take no part in the decision of matters which, being outside the range of federal subjects, have no direct interest to the States. It would, no doubt, be possible so to arrange business in the Legislature that Bills or Budget demands of this character should be dealt with either exclusively or in the Committee

stage by a Committee (analogous to the Scottish Committee of the House of Commons) consisting of the British Indian representatives alone. Some members of the sub-Committee think, however, that it would be unfortunate to initiate such a system of differentiation, and that, whatever conventions might be observed, it would be undesirable in terms to deprive the Legislature of the contribution which any of its members might be able to make on any matter within the Legislature's purview; and they think that it would be found in practice difficult, if not impossible, to classify a given matter as being one in which the States have no interest or concern, direct or indirect. The sub-Committee recommend, however, that the matter be further explored.

37. *Competence of the Federal Legislature.* — With reference to paragraph 5 of this Report, the reports of two sub-Committees are appended to this Report in which recommendations have been made as to the classification as federal, central or provincial, of all the subjects which are at present within the competence of the Indian Legislature. The sub-Committee endorse generally these recommendations, though they recognise that the further expert examination which the matter will undoubtedly require may show the necessity of some modification and adjustment. It will be observed that, apart from the specific recommendations made with regard to the treatment of the several items in the list, there is a general recommendation that legislative co-ordination required in respect of certain provincial subjects, or aspects of provincial subjects, should no longer be secured by the process of submitting Provincial Bills on these subjects for the previous sanction of the Governor-General, but firstly by scheduling certain existing Acts (and the same process would, of course, be applied to certain Acts of the Federal Legislature in the future) as being incapable of amendment in their application to a Province by the Provincial Legislature without the previous sanction of the Governor-General and, secondly, by granting concurrent powers of legislation to the Federal Legislature on certain aspects of specified provincial subjects. It would be necessary to include a provision that any Provincial Act relating to these subjects which is repugnant to a Federal Act is, to the extent of the repugnancy, to be void.

38. *Residual powers.* — The sub-Committee draw attention to the fact that, however carefully the lists of Federal, Central and Provincial subjects are drawn up, there is bound to be a residue of subjects not included in any of them. Whether these residuary powers of legislation are to rest with the Federal Government or with the Provinces is a matter on which the sub-Committee have come to no conclusion. Its great importance is, however, manifest, and it will need most careful consideration at a later stage.

39. *Control by the Federal Government over Provincial Governments.* — This topic leads naturally to the question of the powers of control to be exercised by the Federal Executive over the Provincial Executive and their nature and extent. It goes without saying that within the

range of Federal subjects, the Federal Executive must have authority to ensure that Federal Acts are duly executed in the Provinces; it also goes without saying that within States' territory there can be no question of the exercise of any such authority, direct or indirect, outside the strict range of Federal subjects. But it seems equally evident that in matters affecting more than one Province of British India, even where they relate to subjects classified as Provincial, there must be some authority capable of resolving disputes and of co-ordinating policy when uniformity of policy is in the interests of India as a whole, and the sub-Committee consider that the constitution should recognise this authority as vesting in the Federal Government and should make suitable provision for its exercise.

Signed on behalf of the sub-Committee,  
Sankey,  
*Chairman.*

St. James's Palace,  
London.  
13th January, 1931.

### Appendix I to Second Report of Sub-Committee No. I.

#### Classification of Central and Provincial Subjects.

#### Report of Joint Committee of sub-Committees Nos. I and II.

The Joint Committee<sup>9)</sup> of the Federal Structure sub-Committee and the Provincial Constitutional sub-Committee was appointed to consider in detail the lists of subjects circulated as R.T.C. (F. (S)) 3, Categories A, B, C and D only, and to suggest a provisional classification into three categories: —

- (a) exclusively Central;
- (b) exclusively Provincial;
- (c) subjects in which the Centre and the Provinces are both interested and which might therefore be subject to central co-ordination, and to make any suggestions that they think fit as to the method to be adopted for securing this co-ordination.

We have considered the various subjects and make the recommendations shown in the right-hand column of the attached Tabular Statement. The enumeration is that of the present list of Central and Provincial subjects, Devolution Rules, Schedule I.

(Signed) Zetland,  
*Chairman.*

6th January, 1931.

#### *Proposed Classification of the Indian Central Subjects as detailed in Devolution Rules, Schedule I, Part. I.*

(Enumeration is that of the present list of the Indian Central Subjects.)

A: Those which are proposed to be wholly or partly federalised.

B: Those no portion of which is proposed to be federalised.

<sup>9)</sup> For membership, see list at end of tabular statement.

## A: Central subjects which are proposed to be wholly or partly federalised.

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories. (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
<p>5. Communications to the extent described under the following heads, namely:</p> <p>(a) Railways and extra municipal tramways in so far as they are not classified as provincial subjects.</p> <p>(b) Aircraft and all matters connected therewith.</p> <p>(c) Inland waterways to an extent to be declared by rule made by G.G. in C. or by or under legislation by the Indian Legislature.</p> <p>6. Shipping and navigation (including shipping and navigation of inland waterways in so far as declared to be a central subject under entry 5 (c).</p> <p>7. Lighthouses (including their approaches), beacons, lightships and buoys.</p> <p>8. Port Quarantine and Marine Hospitals.</p>	<p>Railways (including railways to be constructed or acquired in future). <i>Federal</i> for policy and legislation. Administration to be Federal to the extent of powers now exercised by the Railway Board. Federal ... ..</p> <p>Federal for policy and legislation in respect of inland waterways affecting more than one unit.</p> <p>Federal for policy and legislation.</p> <p>Federal ... ..</p> <p>Federal as far as international requirements are concerned.</p>	<p>Present position should be maintained.</p> <p>—</p> <p>The Committee is informed that as the administration is provincial there is no residue left for classification. But for steamships <i>see</i> list C, item 31.</p> <p>The present position should be maintained.</p> <p>—</p> <p>There are no marine hospitals. The only residue is inter-provincial shipping which should be a central subject.</p>



9. Ports declared to be major ports by rule made by the G.G. in C. or by or under legislation by the Indian Legislature.	Such ports to be Federal as are declared to be major ports by rule made by Federal Government or by or under legislation by the Federal Legislature subject in the case of Indian States to such extent as authority may be delegated by the States under a convention.	There is no part of the central subject left which is not federalised.
10. Posts, telegraphs, telephones including wireless installations.	Posts, telegraphs, <i>trunk</i> telephones and wireless installations to be Federal; but with such qualifications as may be necessary for the purposes of adjustment with the States in matters of detail.	The Committee thinks that for technical reasons the local telephones in British India cannot be made a provincial subject. Sir B. N. Mitra suggests that the entry in the second column should be amended as follows:— "Posts, telegraphs, telephones — excepting local ( <i>i.e.</i> , non-trunk) telephones in Indian States and wireless installation."
11. Customs ... ..	<i>Maritime Customs:</i> Federal subject to special adjustment with maritime States having regard to their treaties, engagements and agreements. <i>Customs on external Frontier of Federal India</i> Federal on the lines of maritime customs subject to the special case of Kashmir.	— —
Income Tax ... ..	—	Should be Central as at present. Whether any surcharge should be imposed by the Provinces and whether any portion of the revenue should go to the Provinces are matters beyond the terms of reference to the Committee.
Salt ... .. Other sources of all-India Revenue.	Federal ... .. —	— As regards these (including excise on motor spirit and kerosine) the position should remain as at present.
12. Currency and Coinage	Federal, subject to adjustment with the States concerned of such rights as are not already conceded by them.	—

13. Public debt of India	Public debt of Federal India (power to raise Federal Loans) should be Federal.	The public debt of India on the date of the inauguration of the Federal constitution should be a central subject.
14. Savings Banks ...	Federal for policy and legislation regarding Post Office Savings Banks.	Since it was not clear to what Savings Banks, other than Post Office Savings Banks, this entry may refer, we have no recommendation to make.
15. The Indian Audit Department.	Federal audit to be Federal.	Provincial accounts should be a provincial subject. As regards audit the general sense of the Committee was that it should be a central subject but a substantial minority thought that the audit of provincial accounts should be a provincial subject.
17. Commerce (including banking and insurance).	Federal for policy and legislation.	Should be Central to the extent to which it is at present.
18. Trading Companies and other associations.	Do.	Do.
20. Development of industries, in cases where such development by central authority is declared by order of the Governor General in Council made after consultation with the local Government or local Governments concerned expedient in the public interests.	Development of Industries to be a federal Subject in cases where such development by Federal Authority is declared by order of the Federal Government made after negotiation with and consent of the federating units.	Development of industries should remain Provincial to the extent to which it is not federalised.
21. Control of cultivation and manufacture of opium. Sale of opium for export.	Federal for policy and legislation.	The position should be maintained as at present.
22. Stores and stationery both imported and indigenous required for Imperial Departments.	Stores and stationery both imported and indigenous required for Federal Departments to be Federal.	As regards non-Federal Central Departments the subject should be under the control of the Centre.
23. Control of petroleum and explosives.	Federal for policy and legislation.	The position should be maintained as at present.
24. Geological Survey of India.	Federal ... ..	—
26. Botanical Survey of India.	Federal ... ..	—
27. Inventions and designs.	Federal for policy and legislation.	The position should be maintained as at present.

28. Copyright.	Do.	Do.
29. Emigration from and immigration into British India. Inter-provincial migration.	Emigration from and immigration into <i>India</i> —Federal. —	—  The Committee suggests that the question of making migration between Federal units a Federal subject should be considered.
31. Central police organisation.	Federal police organisation to be Federal.	Central to the extent it is at present.
32. Control of arms and ammunition.	Traffic in arms and ammunition to be Federal for policy and legislation.	The position as regards control of arms and ammunition as apart from traffic in them should be maintained as at present. The provincial Governments should, however, have power to grant exemptions from the requirements of the Arms Act in respect of provincial areas.
33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.	Federal as regards <i>future</i> agencies and institutions.	As regards existing agencies and institutions the subject should continue to be Central as at present—if it is not federalised.
35. Survey of India ...	Federal. ... ..	—
38. Meteorology ... ..	Do. ... ..	—
39. Census ... ..	Federal for policy and legislation—the States reserving administration.	Central to the extent it is at present.
Statistics ... ..	All-India Statistics—Federal.	—
40. All-India Services ...	Federal Services should be Federal.	Central Services should be a central subject. As regards All-India services, the question is for the consideration of the "Services" sub-Committee.
44. Immoveable property in possession of the Governor General in Council.	Immoveable property acquired and maintained at the cost of Federal Government should be Federal.	Immoveable property acquired and maintained at the cost of Central Government should be Central.
45. The Public Services Commission.	Federal for the purpose of Federal Services.	The Public Services Commission for the Central Services should be a central subject.

B.: Central subjects, no portion of which is proposed to be federalised.

The description of the subjects in the Devolution Rules.	<p>The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three categories:</p> <p>(a) Exclusively Central.  (b) Exclusively Provincial.  (c) In which both the Centre and the Provinces are interested and which might be subject to central legislation.</p>
16. Civil Law including laws regarding status, property, civil rights and liabilities and civil procedure.	This question has been considered by a special Legal Committee and we therefore refrain from dealing with it. See Appendix II.
19. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature to be essential in the public interest save to the extent to which in such rule or legislation such control is directed to be exercised by a local Government.	The majority of the Committee considered that the Central Government should not retain the power which this entry gives.
25. Control of Mineral Development in so far as such control is reserved to the Governor-General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.	The control of mineral development should be entirely a provincial subject but the regulation of mines should remain a central subject to the extent it is at present.
30. Criminal Law including Criminal Procedure.	See No. 16 above.
34. Ecclesiastical administration—including European Cemeteries.	This should be a central rather than a provincial subject. It is, however, to be considered whether it should not be a Crown subject.
36. Survey of India ... ..	The present position should be maintained.
37. Zoological survey ... ..	Do.
42. Territorial changes—other than inter-provincial and declaration of laws in connection therewith.	The Committee understands that this has already been decided to be a matter to be dealt with under amendments of the constitution.
43. Regulation of ceremonial titles, orders, precedence and civil uniform.	The Committee understands that this has already been decided to be a matter more properly falling under the authority of the Crown.

The Joint Committee considers that a new entry should be made making Services in the centrally-administered areas and expenditure incurred therein a central subject.

*Proposed Classification of those of the Provincial subjects in respect of which some control is exercised by the Centre.*

*Devolution Rules, Schedule I, Part II.*

(Enumeration is that of the present list of the Provincial subjects.)

C: Provincial subjects which are subject to legislation by the Indian Legislature.

D: Provincial subjects specially excepted and those in respect of which extra provincial control is exercised.

C: Provincial subjects subject to legislation by the Indian Legislature.

<p>Description of subject in the Devolution Rules.</p>	<p>The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three categories:</p> <ul style="list-style-type: none"> <li>(a) Exclusively Central.</li> <li>(b) Exclusively Provincial.</li> <li>(c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.</li> </ul>
<p><i>Local Self Government.</i></p> <p>1. As regards:</p> <ul style="list-style-type: none"> <li>(a) the power of local authorities to borrow otherwise than from the Provincial Government;</li> <li>(b) the levying by such authorities of taxation not included in Schedule II of the Scheduled Taxes Rules.</li> </ul> <p>3. <i>Public Health Sanitation and Vital Statistics.</i></p> <p>As regards infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature.</p> <p>5. <i>Education.</i></p> <p>As regards the definition of the jurisdiction of any University outside the Province in which it is situated.</p> <p>6. <i>Public Works—light and feeder Railways and extra municipal tramways in so far as provision for their instruction and management is made by provincial legislation.</i></p> <p>As regards any such railways or tramways which are in physical connection with a main line or are built on the same gauge as an adjacent main line.</p> <p>7. <i>Water-supplies, irrigation and canals, drainage and embankment, water storage and water power.</i></p> <p>As regards matters of inter-provincial concern or affecting the relation of a Province with any other territory.</p> <p>10. <i>Agriculture.</i></p> <p>In respect of destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian Legislature.</p>	<p>As regards these two matters the Committee thinks that the words "subject to the previous sanction of a central authority to the extent to which such sanction of the Governor-General is now required" should be substituted for the words "subject to legislation by the Indian Legislature."</p> <p>In respect of the specific matter of infectious and contagious diseases in the sphere of public health, which is now subject to legislation by the Indian Legislature, the majority of the Committee are in favour of co-ordination as against legislative control by the Centre.</p> <p>We suggest that the full Committee should consider whether this should not be a Federal subject.</p> <p>The present position should be maintained.</p> <p>Do.</p> <p>As in No. 3 above.</p>

11. *Civil Veterinary Department.*

In respect of animal diseases to such extent as may be declared by any Act of the Indian Legislature

Do.

14. *Forests.*

As regards disforestation of reserved forests.

The Committee thinks that disforestation of reserved forests should be exclusively Provincial.

15. *Land Acquisition.*

Legislation should be exclusively Provincial; but the right of the Central Government to acquire land for its own purposes should be fully safeguarded.

17. *Administration of Justice.*

As regards High Courts, Chief Courts, Courts of Judicial Commissioners and any courts of criminal jurisdiction.

The present position should be maintained.

19. *Administrators — General and Official Trustees.*

The subject should in future be Provincial.

20.—(a) *Non-Judicial Stamps.*

In both cases the present position should be maintained.

(b) *Judicial Stamps.*

As regards amounts of court fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

21. *Registration of deeds and documents.*

In both cases the present position should be maintained.

22. *Registration of births, deaths and marriages.*

This should be subject to legislation by the Indian Legislature—

As regards such classes as the Indian Legislature may determine.

(a) for marriages in the case of such classes as the Indian Legislature may determine.

(b) for births and deaths in the case of Europeans and foreigners.

26. *Industrial matters.*

As regards

(a) Factories.

(b) Settlement of labour disputes.

(c) Electricity.

(d) Boilers.

(g) Welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing.

As regards (a), (b), (c), (d) and (g), there should be a concurrent power of legislation vested in the Provinces and in the Centre. The previous sanction of the Governor-General should not be required in the case of provincial legislation.

28. *Adulteration of Food Stuffs and other articles.*

As regards import and export trade only.

The present position should be maintained.

29. *Weights and measures.*

As regards Standards ... ..

Do.

31. *Inland Waterways including shipping and navigation thereon.*

As regards inland steam vessels only

Do.

33. *Miscellaneous matters.*

(d) *Control of poisons* ... ..

(e) *Control of Motor vehicles* ... ..

Do.

As regards licences valid throughout British India.

(f) <i>Control of dramatic performances and cinematographs.</i> As regards sanction of films for exhibition.	Do.
34. <i>Control of newspapers, books and printing presses.</i>	Do.
37. <i>Criminal Tribes</i> ... ..	The subject should be exclusively Provincial.
38. <i>European Vagrancy</i> ... ..	The present position should be maintained.
39. <i>Prison and Prisoners</i> (except persons detained under The Bengal State Prisoners Regulation, 1818. The Madras State Prisoners Regulation, 1819. The Bombay Regulation XXV of 1827), and Reformatories.	The subject should be exclusively Provincial (but with continuance of central legislation as regards State prisoners).
45. <i>Regulation of medical and other professional qualifications and standards.</i>	The present position should be maintained. The question of making this subject Federal should be considered.
47. <i>Control of Services.</i> As regards public services within the Province other than All-India Services.	The Committee refrains from making any recommendation as the matter falls within the purview of the "Services" sub-Committee.

The Joint Committee recommends generally with regard to the existing legislation on the above subjects that statutory provision should be made similar to that suggested by the Legal sub-Committee on Civil and Criminal law and procedure, under which certain specified Acts should not be repealed or altered by Provincial Legislatures without the previous sanction of the Governor-General. The Committee assumes that where the Centre and Provinces have concurrent legislative powers, the Central Law would prevail in case of conflict.

D: Provincial subjects specially excepted and those in respect of which extra-provincial control is exercised.

The description of the subject in the Devolution Rules.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three categories: (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and Provinces are interested and which might be subject to central co-ordination.
5. <i>Education.</i> The following two are not provincial subjects: (1) The Benares Hindu University. The Aligarh Muslim University and such other Universities as may be declared by the Governor-General in Council to be central subjects. (2) Chiefs' colleges and any institution maintained by the Governor-General in Council for the benefit of the mem-	The Benares and Aligarh Universities should be central subjects, together with such Universities constituted after the inauguration of the new constitution as may be declared by the Central authority to be central subjects. The question of making chiefs' colleges and institutions for the benefit of members of His Majesty's Forces or their

bers of His Majesty's Forces and of other public servants or of the children of such members or servants.

6. *Public Works.*

Ancient monuments as defined in Section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under Section 3 (1) of that Act, are central subjects.

8. *Colonisation and disposal of Crown Lands not in possession of the Governor-General in Council.*

The control is exercised by the Secretary of State in Council under Section 30 of the Government of India Act.

16. *Excise.*

Control of cultivation, manufacture and sale for export of opium are central subjects.

24. *Development of mineral resources which are Government property.*

This power is subject to rules made or sanctioned by the Secretary of State.

24a. *Control of production supply and distribution of any articles.*

The extent to which such control is directed to be exercised by a local Government is laid down by

- (a) a rule made by the Governor-General in Council,
- (b) or under legislation by the Indian Legislature.

27. *Stores and Stationery.*

In the case of imported stationery the control is subject to such rules as may be prescribed by the Secretary of State in Council.

30. *Ports.*

Such ports as may be declared by the Governor-General in Council to be major ports by a rule made by the Governor-General in Council or by or under Indian legislation are not provincial but central subjects.

31. *Inland Waterways.*

The Governor-General in Council may declare some to be central subjects.

32. *Police, including Railway Police.*

In the case of the Railway Police this control is subject to such conditions as regards limits of jurisdiction and Railway contribution to cost of maintenance as the Governor-General in Council may determine.

children Federal subjects should be considered; otherwise Central.

The position should be maintained as at present.

The Joint Committee considers this subject to be beyond its terms of reference.

The present position should be maintained.

The regulation of development should rest with the Government—Central and Provincial—under whose authority the resources are developed.

See item No. 19 in the list B above.

The Joint Committee sees no necessity for regulation by a superior authority of imports of stationery by provincial Governments.

See item No. 9 in the list A above.

See item No. 5 (b) in the list A above.

The present position should be maintained.



39. *Prisons and Prisoners.*

Prisoners detained under the Bengal State Prisoners Regulation, 1818, the Madras State Prisoners Regulation, 1819, the Bombay Regulation XXV of 1827, are central subjects.

See item No. 39 in the list C above.

42. *Libraries and Museums.*

The Imperial Library, the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta, are central subjects.

The present position should be maintained. The question of making these institutions Federal should be considered.

49. *Borrowing money on the sole credit of the Province.*

This power is subject to the provisions of the local Government Borrowing Rules.

The present position should be maintained.

N.B.—The Joint Committee consisted of the following members:—Lord Zetland, Mr. Sastri, Sir B. N. Mitra, Mr. Mudaliyar, Sir M. Shafi, Sir S. Ahmed, Sardar Ujjal Singh, Mr. Gavin Jones, Dr. Ambedkar, Nawab Sir Ahmad Said Khan, Mr. Joshi, Raja Narendra Nath, Sir A. P. Patro, Sir Chimanlal Setalvad, Mr. Zafrullah Khan.

## Appendix II to Second Report of Sub-Committee

### No. I.

#### Civil Law and Criminal Law and Procedure.

#### Report of the Legal Sub-Committee of Sub-Committee No. I.

The Legal sub-Committee have considered the possibility of giving Provincial legislatures a plenary power of legislation over the whole field of civil and criminal law and giving the Central legislature power to legislate on those matters only which are necessarily the concern of the Central authority. They find, however, that it would be difficult, if not impossible, to specify or even to indicate in general terms all the matters which should be reserved for the Central legislature, and that, therefore, it will be necessary to give the Central legislature a wide power of legislation. The Committee think also that it is necessary in the interest no less of the Provinces than of British India as a whole that the uniformity in civil and criminal law which now exists should be maintained. At the same time they think that the Provincial legislatures should have a wide power of legislation as regards civil and criminal law for provincial purposes. The sub-Committee think that the objects in view can best be secured by giving the Central legislature a plenary power of legislation on all matters of civil and criminal law and giving Provincial legislatures a concurrent power of legislation except as regards those matters which are necessarily the concern of the Central authority, e.g., laws relating to international obligations, laws for territories not subject to any Provincial legislature and laws affecting any power expressly reserved to the Central authority by any law for the time being in force.

To preserve the uniformity which at present exists the present arrangement should be maintained under which certain important Acts cannot be repealed or altered without the previous sanction of the Governor-General. The Acts are specified in rules made under section 80A (3) (h) of the Government of India Act but the list requires certain alterations and additions.

On all other matters so far as the legislative power of a Provincial legislature is concurrent with that of the Central legislature it should be capable of being exercised without any previous sanction but it should be declared to be subject to legislation by the Central legislature so that in case of a conflict between Central and Provincial legislation the former would prevail. The sub-Committee think that if this plan were adopted Provincial legislatures would have in the field of civil and criminal law a power of legislation which would be sufficient for their needs. To give effect to this plan items 16 and 30 in the Central list should remain as they are, a complementary entry should be made in the Provincial list and provision should be made somewhere in the Act on the lines of section 80A (3) (h) to secure the uniformity desired.

This uniformity should extend to such matters as those covered by the Acts referred to in the rules made under section 80A (3) (h). The list of the Acts contained in the rules will require further examination and must in any case be brought up to date.

31st December, 1930.

N.B.—The sub-Committee consisted of the following members:—Sir Muhammad Shafi, Sir Tej Bahadur Sapru, Sir C. P. Ramaswami Aiyar, Mr. Jayakar, and Mr. Jinnah, with the assistance of Sir Edward Chamier and Sir Maurice Gwyer.

### Sub-Committee No. II (Provincial Constitution).

Report presented at Third Meeting of the Committee of the whole Conference, held on 16th December, 1930.

1. The following report, subject to adjustment to the complete constitution, is submitted by sub-Committee No. II.

2. The sub-Committee was appointed to consider two heads of the Lord Chancellor's list, namely

(a) The powers of the provincial legislatures.

(b) The constitution, character, powers, and responsibilities of the provincial executives.

3. The sub-Committee met on the 4th, 5th, 8th, 9th and 15th December. The proceedings on the first and second days comprised a general discussion of the problem. On the succeeding days particular issues were separately considered and examined. The Chairman ruled that the size, lifetime, number of chambers of the provincial legislatures, and the question of the official bloc might also be discussed as germane to the sub-Committee's Terms of Reference.

4. *The Abolition of Dyarchy*.—The sub-Committee is agreed that

in the Governor's provinces the existing system of dyarchy should be abolished and that all provincial subjects, including the portfolio of law and order, should be administered in responsibility to the provincial legislatures. (See note at end.)

5. *The Composition of the Provincial Executives.*—(a) *Joint Responsibility.*—The sub-Committee recommends that there should be unitary executives; and that the individual Ministers composing the executive should be jointly responsible to the legislature.

(*Raja Narendra Nath awaits the report of the Minorities sub-Committee before agreeing finally to joint responsibility.*)

(b) *The appointment of Ministers.*—The responsibility for appointing Ministers will rest with the Governor. The sub-Committee is of opinion that in the discharge of that function the Governor should ordinarily summon the member possessing the largest following in the legislature, and invite him to select the Ministers and submit their names for approval. The Ministers should ordinarily be drawn from among the elected members of the provincial legislature. In the event of the appointment of a non-elected non-official, such person should be required by statute to secure election to the legislature (and if the legislature be bicameral, to either chamber) within a prescribed period not exceeding six months, but subject to this limit he may be nominated by the Governor to be a member of the legislature. The sub-Committee is of opinion that there should be no discretion to permit the appointment of an official to the Cabinet.

(*The Marquess of Zetland and Sir Robert Hamilton dissent from the last two sentences.*)

(c) *Group or communal representation in the Cabinet.*—The sub-Committee considers it a matter of practical importance to the success of the new constitutions that important minority interests should be adequately recognised in the formation of the provincial executives. An obligation to endeavour to secure such representation should be expressed in the Instrument of Instructions to the Governor.

(*Mr. Chintamani dissents from the last sentence.*)

6. *Powers of the Governor.*—(a) *In regard to legislature.*—(1) The Governor shall have power to dissolve the legislature; he may assent or withhold assent to legislation; he may return a bill for reconsideration by the legislature, or reserve it for the consideration of the Governor-General.

(2) It shall not be lawful without the previous sanction of the Governor to introduce any legislation

(i) affecting the religion or religious rites of any class or community in the Province;

(ii) regulating any subject declared under the constitution to be a federal or central subject;

(iii) any measure repealing or affecting any Act of the federal or central legislature or Ordinance made by the Governor-General.

(b) *Conduct of business.*—(1) The Governor shall, with the knowledge of his Ministers, be placed in possession of such information as may be needed by him for the discharge of duties imposed upon him by the constitution.

(2) In the opinion of the sub-Committee, the Chief Minister should preside over meetings of the Cabinet; but on any special occasion, the Governor may preside.

(c) *Relations of the Governor to his Ministers.*—(1) The Ministers shall hold office during the pleasure of the Governor.

(2) Sub-section 3 of section 52 of the Government of India Act, which confers a general power on the Governor to refuse to be guided by the advice of his Ministers when he sees sufficient cause to dissent from their opinion shall no longer operate. The Governor's power to direct that action should be taken otherwise than in accordance with the advice of the Ministers, shall be restricted to the discharge of the specified duties imposed on him by the constitution. These duties shall include the protection of minorities and the safeguarding of the safety and tranquillity of the Province.

(d) *Special and Emergency powers.*—There shall be vested in the Governor (1) suitable powers in regard to legislation and finance necessary for the discharge of the specified duties imposed upon him by the constitution and (2) suitable emergency powers to carry on the administration in the event of a breakdown of government or the constitution. The powers under (2) shall not remain in operation for more than six months without the approval of Parliament expressed by a resolution of both Houses.

The sub-Committee suggests a rider that in their opinion it is desirable that the present rigid convention in Provinces other than the Presidencies of appointing Governors drawn from the Indian Civil Service should be relaxed. (There was some support for the substitution of the word "discontinued" for the word "relaxed.")

*(Sir Chimanlal Setalvad, Sir Cowasji Jehangir and Messrs. Ramachandra Rao, Barooah, Chintamani, Joshi, Paul and Ambekar dissent from the sub-Committee's conclusions on the powers of the Governor.)*

7. *The Composition of the Provincial Legislatures.*—(a) *Their size.*—The sub-Committee anticipates that, to meet the conditions of the new constitutions and electorates, the provincial legislatures will require to be enlarged on the basis of ascertained needs, regard being had to the numbers and character of the constituencies.

(b) *Their lifetime.*—In the opinion of the sub-Committee the normal lifetime of the provincial legislatures should not exceed five years.

(c) *The official bloc.*—With the possible exception of a strictly limited proportion of non-officials who may in some Provinces require to be nominated by the Governor to secure the representation of groups unable to return their own members through the polls, the new pro-

vincial legislatures should consist wholly of elected members, and the official bloc should disappear.

(d) *Second Chambers.*—The existing provincial legislatures are unicameral. The sub-Committee recognises that conditions in some Provinces may make it desirable that the provincial legislatures should be bicameral; but the decision to incorporate a second chamber in the new constitution of any Province other than Bengal, the United Provinces and Bihar and Orissa where opinion in favour of a second chamber has already been expressed should not be taken until opinion in the Province definitely favours this course.

[The reference to the Provinces of Bengal, the United Provinces and Bihar and Orissa was inserted at the wish of a majority of the sub-Committee.]

*Note.*

(1) The question of the administration of the police was raised by Lord Zetland under para. 4, and it was decided that this should be left for the report of the Services sub-Committee when set up.

(2) The sub-Committee did not consider the constitution of the North West Frontier Province since it was understood that a special sub-Committee would be set up to deal with this subject.

(Sd.) Arthur Henderson,  
*Chairman.*

Secretariat-General,  
St. James's Palace, London.  
15th December, 1930.

The following Delegates were members of the sub-Committee:—

*Composition.*

Mr. A. Hendersen (*Chairman*).  
Lord Zetland.  
Sir Robert Hamilton.  
H.H. The Maharaja of Nawanagar. } Holding a  
Sir Prabhashankar Pattani. } watching  
Rao Bahadur Krishnama Chari. } brief  
Sir Ghulam Hussain Hidayatullah.  
Mr. Jadhav.  
Sir Chimanlal Setalvad.  
Sir Cowasji Jehangir.  
Sir Shah Nawaz Bhutto.  
Sir Provash Chunder Mitter.  
Mr. Fazl-ul-Huq.  
Raja of Parlakimedi.  
Mr. Ramachandra Rao.

Sir A. P. Patro.  
Nawab Sir Ahmad Said Khan.  
Mr. Chintamani.  
Mr. Tambe.  
Mr. Zafrullah Khan.  
Raja Narendra Nath.  
Sardar Sampuran Singh.  
Maharaja of Darbhanga.  
Mr. Barooah.  
Sir Abdul Quaiyum.  
Mr. Wood.  
Mr. Paul.  
Mr. Joshi.  
Dr. Ambedkar.

### Sub-Committee No. III (Minorities).

Report presented at Meetings of the Committee of the whole Conference, held on 16th and 19th January, 1931.

*(With an amendment passed by the Committee<sup>1</sup> of the whole Conference on 19th January, 1931.)*

1. The sub-Committee was set up to consider the claims of minorities, other than those incidental to the subjects referred to other Committees, and was composed of the following members:—

Prime Minister (*Chairman*).

Sir W. A. Jowitt

Lord Peel

Major Stanley.

Lord Reading.

Mr. Foot.

H. H. The Aga Khan.

Maulana Muhammad Ali.

Dr. Ambedkar.

Sir Shah Nawaz Bhutto (after the death  
of Maulana

Sir Hubert Carr. Muhammad Ali).

Mr. Chintamani.

Nawab of Chhitari.

Mr. Fazl-ul-Huq.

Mr. Ghuznavi.

Lieut.-Col. Gidney.

K.B. Hafiz Hidayat Husain.

Mr. Joshi.

Sir P. C. Mitter.

Dr. Moonje.

Raja Narendra Nath.

Rao Bahadur Pannir Selvam.

Sir A. P. Patro.

Mr. Paul.

Mr. Ramachandra Rao.

Mr. Shiva Rao.

Sir Sultan Ahmed.

Sir M. Shafi.

Sardar Sampuran Singh.

Mr. Sastri.

Sir C. Setalvad.

Sir Phiroze Sethna.

Dr. Shafa'at Ahmad Khan.

Begum Shah Nawaz.

Rao Bahadur Srinivasan.

Mrs. Subbarayan.

Sardar Ujjal Singh.

Mr. Zafrullah Khan.

Cat ain Raja Sher Muhammad Khan and

Nawab Sir Abdul Quaiyum (after the  
departure of Sir Sultan Ahmed and the  
Nawab of Chhitari).

2. The sub-Committee felt that the first task to which it should address itself was to have an authoritative statement of claims put in by the representatives of each community with proposals as to how their interests should be safeguarded. Opinion was unanimous that, in order to secure the co-operation of all communities, which is essential to the successful working of responsible government in India, it was necessary that the new constitution should contain provisions designed to assure communities that their interests would not be prejudiced; and that it was particularly desirable that some agreement should be come to between the major communities in order to facilitate the consideration of the whole question. Although this was very nearly accomplished, it has not yet succeeded, but the negotiations are to be continued both here and in India.

3. One of the chief proposals brought before the sub-Committee was the inclusion in the constitution of a declaration of fundamental rights safeguarding the cultural and religious life of the various communities and securing to every individual, without discrimination as to race, caste, creed or sex, the free exercise of economic, social and civil rights. (Mr. Joshi objected to the omission of reference to the economic rights of the various communities. Dr. Ambedkar called

attention to the necessity of including in the constitution sanctions for the enforcement of the fundamental rights, including a right of redress when they are violated.)

4. The possibility was expressed that under certain conditions the election of the Legislatures might be from a general register, but no agreement was come to regarding these conditions.

Whilst it was generally admitted that a system of joint free electorates was in the abstract the most consistent with democratic principles as generally understood, and would be acceptable to the Depressed Classes after a short transitional period provided the franchise was based on adult suffrage, the opinion was expressed that, in view of the distribution of the communities in India and of their unequal economic, social and political effectiveness, there was a real danger that under such a system the representation secured by minorities would be totally inadequate, and that this system would therefore give no communal security.

5. Claims were therefore advanced by various communities that arrangements should be made for communal representation and for fixed proportions of seats. It was also urged that the number of seats reserved for a minority community should in no case be less than its proportion in the population. The methods by which this could be secured were mainly three: (1) nomination, (2) joint electorates with reservation of seats, and (3) separate electorates.

6. Nomination was unanimously deprecated.

7. Joint electorates were proposed, with the proviso that a proportion of seats should be reserved to the communities. Thus a more democratic form would be given to the elections, whilst the purpose of the separate electorate system would be secured. Doubts were expressed that, whilst such a system of election might secure the representation of minorities, it provided no guarantee that the representation would be genuine, but that it might, in its working, mean the nomination or, in any event, the election of minority representatives by the majority communities.

It was pointed out that this was in fact only a form of community representation and had in practice all the objections to the more direct form of community electorates.

8. The discussion made it evident that the demand which remained as the only one which would be generally acceptable was separate electorates. The general objection to this scheme has been subject to much previous discussion in India. It involves what is a very difficult problem for solution, viz., what should be the amount of communal representation in the various Provinces and in the Centre; that, if the whole, or practically the whole, of the seats in a Legislature are to be assigned to communities, there will be no room for the growth of independent political opinion or of true political parties, and this problem received a serious complication by the demand of the representative of the Depressed Classes that they should be deducted from the Hindu

population and be regarded, for electoral purposes, as a separate community.

9. It was suggested that, in order to meet the most obvious objection to the earmarking of seats to communities, only a proportion should be so assigned—say 80 per cent. or 90 per cent.—and that the rest should be filled by open election. This, however, was not regarded by some of the communities as giving them the guarantees they required.

10. The scheme proposed by Maulana Muhammad Ali, a member of the sub-Committee, whose death we deplore, that, as far as possible, no communal candidate should be elected unless he secured at least 40 per cent. of the votes of his own community and at least 5 or 10 per cent., according to arrangement, of the votes of the other community, was also considered. It was, however, pointed out that such a scheme necessarily involved the maintenance of communal registers, and so was open to objections similar to those urged against separate electorates.

11. No claim for separate electorates or for the reservation of seats in joint electorates was made on behalf of women who should continue to be eligible for election on the same footing as men. But, in order to familiarise the public mind with the idea of women taking an active part in political life and to secure their interim representation on the Legislature, it was urged that 5 per cent. of the seats in the first three Councils should be reserved for women and it was suggested that they should be filled by co-option by the elected members voting by proportional representation.

12. There was general agreement with the recommendation of sub-Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that, on the same grounds, Muhammadans should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible, in each Cabinet there should be a Minister specially charged with the duty of protecting minority interests.

(Dr. Ambedkar and Sardar Ujjal Singh would add the words "and other important minorities" after the word Muhammadans in line 6.)

The difficulty of working jointly responsible Executives under such a scheme as this was pointed out.

13. As regards the administration, it was agreed that recruitment to both Provincial and Central Services should be entrusted to Public Service Commissions, with instructions to reconcile the claims of the various communities to fair and adequate representation in the Public Services, whilst providing for the maintenance of a proper standard of efficiency.

\*14. On behalf of the British commercial community it was urged



that a commercial treaty should be concluded between Great Britain and India, guaranteeing to the British mercantile community trading rights in India equal to those enjoyed by Indian-born subjects of His Majesty on the basis of reciprocal rights to be guaranteed to Indians in the United Kingdom. It was agreed that the existing rights of the European community in India in regard to criminal trials should be maintained.

\*The Committee of the whole Conference at their meeting on 19th January, 1931, substituted the following for paragraph 14:—

"At the instance of the British commercial community the principle was generally agreed that there should be no discrimination between the rights of the British mercantile community, firms and companies, trading in India and the rights of Indian-born subjects, and that an appropriate convention based on reciprocity should be entered into for the purpose of regulating these rights.

It was agreed that the existing rights of the European community in India in regard to criminal trials should be maintained."

15. The discussion in the sub-Committee has enabled the Delegates to face the difficulties involved in the schemes put up, and though no general agreement has been reached, its necessity has become more apparent than ever.

16. It has also been made clear that the British Government cannot, with any chance of agreement, impose upon the communities an electoral principle which, in some feature or other, would be met by their opposition. It was therefore plain that, failing an agreement, separate electorates with all their drawbacks and difficulties, would have to be retained as the basis of the electoral arrangements under the new constitution. From this the question of proportions would arise. Under these circumstances, the claims of the Depressed Classes will have to be considered adequately.

17. The sub-Committee, therefore, recommend that the Conference should register an opinion that it was desirable that an agreement upon the claims made to it should be reached, and that the negotiations should be continued between the representatives concerned, with a request that the result of their efforts should be reported to those engaged in the next stage of these negotiations.

18. The Minorities and Depressed Classes were definite in their assertion that they could not consent to any self-governing constitution for India unless their demands were met in a reasonable manner.

Signed on behalf of the sub-Committee,

J. Ramsay Macdonald.

St. James's Palace, London.

16th January, 1931.

#### Sub-Committee No. IV. (Burma.)

*(Dieser Unterausschuß war von der Vollversammlung der Konferenz beauftragt worden, zu untersuchen, unter welchen Bedingungen Burma von Britisch-Indien getrennt werden könnte, und seine Empfehlungen darüber mitzuteilen. Aus seinem — hier aus Raumgründen nicht wiedergegebenen — Bericht ist hervorzuheben, daß er sich im Prinzip für eine*

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*solche Trennung ausgesprochen hat — unter der Voraussetzung, daß dabei die berechtigten Interessen der Inder und der anderen Minderheiten geschützt würden und daß eine finanzielle Auseinandersetzung<sup>10)</sup> zwischen den bisher vereinigten Teilen herbeigeführt werde.)*

#### **Sub-Committee No. V. (North West Frontier Province.)**

Report presented at the Meeting of the Committee of the whole Conference, held on 16th January, 1931. (Auszug.)

1. Sub-Committee No. V submits the following report subject to adjustment to the complete constitution.

2. The terms of reference to the sub-Committee were to consider "what modifications, if any, are to be made in the general provincial constitution to suit the special circumstances of the North West Frontier Province."

3. The sub-Committee comprised the following members:— (*folgen die Namen; desgl. die Daten der Sitzungstage.*)

4. *The Need for Reform.*—The sub-Committee is unanimous in attaching urgent importance to the need for reform in the North West Frontier Province. It recommends that the five administered districts should cease to be as they are at present a centrally administered territory under the direct control of the Government of India, and that they should be given the status of a Governor's province, subject to such adjustment of detail as local circumstances require, and the extent of the All-India interests in the province necessitate.

5. *The Classification of Provincial Subjects.*—The sub-Committee recommends that, as in other Governors' provinces, there should be a classification of provincial subjects entrusted to the charge of the provincial government. The precise discrimination of subjects between the Centre and the North West Frontier Province will require careful investigation, if necessary, by a specially constituted committee following broadly the lines of the classification in other provinces. Subject to the findings of such a committee the sub-Committee contemplates that the charge of the ordinary civil police in the five administered districts excluding the frontier constabulary will pass to the provincial government of these districts, but in view in particular of the close relation of the province with matters of defence and foreign policy the sub-Committee considers it essential that all matters of All-India importance and all matters connected with the control of the tribal tracts, for instance, the frontier constabulary, frontier remissions and allowances, and strategic roads should be excluded from the purview of the provincial government and classed as central subjects. The broad point is that in making the dividing line between central and provincial subjects, regard would be had to the need for classifying as central certain subjects of All-India importance peculiar to the present ad-

<sup>10)</sup> Vgl. darüber s. 93 der Botschaft der Indischen Regierung über die Vorschläge zur Verfassungsreform (v. 20. 9. 1930), Cmd. 3700 (1930).

ministration of the North West Frontier Province, which could not properly be entrusted to the provincial legislature.

6. *The Executive*.—The sub-Committee recommends that the Executive should consist of the Governor assisted by the advice of two ministers drawn from the non-official members of the legislature, at least one of whom shall be elected <sup>11)</sup>).

The Governor should also function as Agent to the Governor-General for the control of the tribal tracts, and the administration of central subjects peculiar to the North West Frontier Province. With these subjects, since they will be not provincial but central subjects, the ministers will have no concern. The sub-Committee considers it essential owing to the close inter-relation between the trans-border tracts and the settled districts and in order that All-India interests may be adequately secured—that in addition to possessing all the powers vested in the Governor of a Governor's province, the Governor of the North West Frontier Province should be the effective head of the Provincial administration and should preside over the meetings of his own cabinet.

7. *The Legislature*.—(i) A unicameral legislative Council. The sub-Committee recommends that there should be set up for the five administered districts a single-chamber legislative Council with power to pass legislation and vote supply in regard to all subjects that may be classed as provincial. In addition the legislature should possess the usual powers of deliberation and of interpellation.

.....  
(folgen Bemerkungen über Größe und Zusammensetzung des Gesetzgebenden Rates und über das Wahlrecht zu diesem).

(v) Minority representation. Subject to such recommendations as the Minorities sub-Committee may make, this sub-Committee considers that if Muslims are given weightage in provinces where they are in a minority, the Hindus and Sikhs in the North West Frontier Province should be given weightage in the legislature of that province. Their representation might be three times the figure to which they would be entitled on a population basis.

8. (handelt über die vermutlich notwendig werdende finanzielle Dotierung der Provinz aus zentralen (oder bundesstaatlichen) Quellen).

(Signed) Arthur Henderson,

Chairman.

St. James's Palace,  
London.

1st January, 1931.

<sup>11)</sup> Note I.—Sir Samuel Hoare holds the view that in accordance with the recommendation of the Chief Commissioner of the North West Frontier Province, and the Despatch of the Government of India, one of the ministers should be an official.

Note II.—Sir B. N. Mitra suggested the words "acting on the advice of two ministers" in place of the words "assisted by the advice of two ministers" in the first sentence of the paragraph.

### Sub-Committee No VI (Franchise).

Report Presented at the Meeting of the Committee of the Whole Conference, held on 16th January, 1931.

1. The terms of reference to this sub-Committee were as follows:—

“On what main principles is the Franchise to be based for men and women.”

The following Delegates were selected to serve on the sub-Committee:—

Sir W. A. Jowitt (*Chairman*).

Lord Zetland.

Major Stanley.

Sir. R. Hamilton.

Mr. Foot.

Dr. Ambedkar.

Mr. Basu.

Mr. Barooah.

Mr. Chintamani.

Mr. Fazl-ul-Huq.

Mr. Ghuznavi.

Lieut.-Colonel Gidney.

Sir Ghulam Hussain Hidayatullah.

Mr. Hafiz Hidayat Husain.

Mr. B. V. Jadhav.

Sir Ciowasji Jehangir.

Mr. Joshi.

Dr. Narendra Nath Law.

Sir P. C. Mitter.

Mr. Pannir Selvam.

Raja of Parlakimedi.

Mr. K. T. Paul.

Mr. Ramachandra Rao.

Mr. Shiva Rao.

Sardar Sampuran Singh.

Sardar Ujjal Singh.

Sir Chimanlal Setalvad.

Kunwar Bisheshwar Dayal Seth.

Sir Phiroze Sethna.

Dr. Shafa'at Ahmad Khan.

Mr. Zafrullah Khan.

Begum Shah Nawaz.

Mrs. Subbarayan.

Mr. Srinivasan.

Mr. S. B. Tambe.

Sir Hubert Carr.

2. The sub-Committee met on the 19th, 22nd, and 30th of December, 1930, and on the 1st of January, 1931, and have authorised me to present this Report.

3. In our discussion of the franchise principles we have found that they were closely connected with questions which more properly concern the composition of the legislature, the nature of the constituencies, and the qualifications for candidates for election. These points have not been considered in the sub-Committee as they fall outside its terms of reference but we are of opinion that they should be further examined since the efficacy of any franchise system depends as much on these points as on the qualifications for the franchise.

4. *Extension of the franchise.*—While it was generally held that adult suffrage was the goal which should ultimately be attained, it was agreed that the basis of the franchise could forthwith be broadened and that a large increase was desirable.

Some difference of opinion existed as to the extent to which this was practicable in present circumstances, and it was realised that the sub-Committee had not the necessary material to determine the precise limits of the advance. The Statutory Commission suggested such an increase in the number of electors as would bring that number up to 10 per cent. of the total population. Some of our members thought that an increase to 25 per cent. of the total population was immediately practicable.

We recommend that an expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than 10 per cent. of the total population and indeed a larger number—but not more than 25 per cent. of the total population—if that should, on a full investigation, be found practicable and desirable.

We recommend that, in addition to providing for this increase, the Commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of about 20 or in some other suitable manner, for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them.

[Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, Mr. Srinivasan, Mr. K. T. Paul, and Mr. Jadhav regard these proposals as quite inadequate and consider that the immediate introduction of adult suffrage is both practicable and desirable.]

Sir Cowasji Jehangir and Sir P. C. Mitter dissent from these proposals and consider that the basis of the franchise should be broadened, if at all, by another system.]

5. *Uniformity of qualifications for the franchise.*—We recommend that in any given area the franchise qualifications should be the same for all communities; but we desire that the Franchise Commission in making their proposals should bear in mind that the ideal system would as nearly as possible give each community a voting strength proportional to its numbers and that the Commission should so contrive their franchise system as to secure this result in so far as it may be practicable.

[Sardar Ujjal Singh, Sardar Sampuran Singh, Sir Cowasji Jehangir, and Lieut.-Colonel Gidney dissent from the latter part of this conclusion.]

6. *Property qualification.*—We consider that there should be a property qualification for the franchise and that in this connection the word "property" should be understood in its widest sense as including not only the ownership of landed property but also the occupation of landed or house property or the receipt of income or wages whether in cash or kind.

7. *Educational qualification.*—We are of opinion that the Franchise Commission should consider the possibility of framing a suitable educational qualification as an additional qualification for the franchise, bearing in mind the ideal enunciated at the end of paragraph 5.

8. *Military service qualification.*—We are agreed that the existing Military Service qualification should be retained and we recommend that the Franchise Commission should consider the extension of this qualification so as to include service in the Auxiliary and Territorial Forces.

9. *Special franchise qualification for women.*—We observe that

under the existing franchise the number of women voters is infinitesimal as compared with that of men. No system of franchise can be considered as satisfactory, or as likely to lead to good government where such a great disparity exists between the voting strength of the two sexes. We do not anticipate that the recommendations we have already made will reduce this disparity, nor do we think that they provide sufficiently for the enfranchisement of women. We therefore agree that special qualifications should be prescribed for women but we feel that there is not sufficient material before us to justify an attempt to formulate these special qualifications. We therefore recommend that the Franchise Commission should devote special attention to this question in the light of all the evidence available including the recommendations of the Statutory Commission and the suggestion made in this sub-Committee that the age limit mentioned in the proposals of the Statutory Commission should be lowered from 25 to 21.

[Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, and Mr. Srinivasan dissent from the proposals in paragraphs 7, 8, and 9.]

10. *The franchise for special constituencies.*—We are of opinion that the franchise qualifications for special constituencies depend essentially on the nature of those constituencies. We are not empowered to consider the latter point nor are we in possession of information as to what special constituencies are contemplated. These questions require examination by a competent body. So far as the franchise aspect has been discussed in this sub-Committee a division of opinion has shown itself as to the desirability of permitting a voter qualified in both a general and a special constituency to vote in both.

11. *Urban and rural enfranchisement.*—We are of opinion that the Franchise Commission should endeavour so to adjust the franchise qualifications as to remove in those areas where it may exist any marked disparity in the operation of the franchise qualifications in urban as compared with rural areas.

12. *The residential requirement.*—We are of opinion that the residential qualification for the vote required by the electoral rules of certain Provinces should be abolished.

13. *The future electorate.*—We consider it inadvisable to lay down any programme of automatic extensions of the franchise. We prefer that it should be left to each Provincial Legislature to extend its franchise at its discretion after the lapse of 10 years from the date of the introduction of the new Constitutions.

[Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, and Mr. Srinivasan consider that a programme of automatic extension of the franchise should be laid down.]

14. *Franchise for the Central or Federal Legislature.*—The form of the Central or Federal Legislature has not yet been decided and in these circumstances we do not find it possible to make any suggestions regarding a suitable franchise system.

[Mr. Fazl-ul-Huq and Mr. Ghuznavi desire it to be recorded that their assent to this report is contingent on the retention of separate electorates.]

(Sd.) W. A. Jowitt,  
*Chairman.*

St. James's Palace, London.  
1st January, 1931.

### Sub-Committee No. VII (Defence).

Report Presented at the Meeting of the Committee of the Whole Conference held on 16th January, 1931.

1. The terms of reference of this sub-Committee were as follows:—

“To consider questions of political principle relating to defence, other than strictly constitutional aspects to be considered under heads 6 (Powers of the Executive) and 12 (Relations with the Crown).”

The following Delegates were selected to serve on the sub-Committee:—

Mr. J. H. Thomas (*Chairman*).  
Lord Peel.  
Sir S. Hoare.  
Lord Reading.  
Lord Lothian.  
H. H. The Maharaja of Alwar.  
H. H. The Nawab of Bhopal.  
H. H. The Maharaja of Bikaner.  
H. H. The Maharaja of Kashmir.  
H. H. The Maharaja of Patiala.  
Sir Akbar Hydari.  
Sir Mirza Ismail.  
Colonel Haksar.  
The Rt. Hon. Srinivasa Sastri.  
Sir Tej Bahadur Sapru.

Diwan Bahadur M. Ramachandra Rao.  
Diwan Bahadur Ramaswami Mudaliyar.  
Sir Phiroze Sethna.  
Mr. M. R. Jayakar.  
Dr. B. S. Moonje.  
Mr. Jadhav.  
Sir B. N. Mitra.  
Sardar Sahib Ujjal Singh.  
Lieut.-Col. Gidney.  
Sir Hubert Carr.  
Sir Muhammad Shafi.  
Mr. M. A. Jinnah.  
Dr. Shafa'at Ahmad Khan.  
Nawab Sir Abdul Qaiyum.  
Raja Sher Muhammad Khan.

2. The sub-Committee met on the 7th, 9th, 12th, and 14th January, 1931, and have authorised me to present this report.

3. The discussion in the sub-Committee centred mainly round the question of Indianisation, and every aspect of this question received thorough attention. It was unanimously agreed that in a matter of such importance as Defence, the utmost care was necessary in expressing opinions, and the sub-Committee as a whole was very anxious not to create the impression that anyone in any way or to any degree wanted to say anything that could even remotely tend to imperil the safety of the country or to weaken the strength of the Army. It was in view of this general feeling that all sections of the sub-Committee emphasized the importance of maintaining the same standard of efficiency in training as prevails now in England. The sub-Committee also recognised that in dealing with the question of Defence it was not possible to overlook that a factor that must govern all considerations

of the subject was the responsibility of the Crown through the Committee of Imperial Defence, which body was ultimately responsible for examining all these problems. It was realised that the responsibility of the Committee of Imperial Defence was not something that was special to India, but was common to the Empire as a whole.

Subject to the above matters of agreement, the general discussion regarding Indianisation was on the following lines. The majority of the sub-Committee considered it impossible for practical reasons to lay down any definite rate of Indianisation or anything of a precise character that might in any way embarrass those responsible for Defence and fetter the judgment or the discretion of the military authorities. Those that held this view felt that the principle of the Indianisation of officers of the Indian Army could not be looked upon as merely a question regarding the efficiency of a single officer or group of officers, or even of a single unit or group of units. It was a principle that to the majority appeared to affect the Army as a whole. It was in consequence the view of this large section of the sub-Committee that a highly technical question was involved on which the sub-Committee was not qualified to express an opinion. One section of the sub-Committee, however, was in favour of a strong affirmation to the effect that the complete Indianisation of the officers in the Indian Army should take place within a specified period, subject of course to the requirements of efficiency, and further subject to the provision of suitable candidates for recruitment as officers in India. Those members who were of this opinion held the view that this was not a technical question at all, but involved only practical considerations. The difference in these two views being fundamental, the sub-Committee decided to incorporate these in its report, and the Chairman further undertook that, when, in pursuance of the resolutions of this sub-Committee, expert committees were appointed, those expert committees would as a matter of course take into consideration the proceedings of previous Committees and in particular the proceedings of the Military Requirements Committee of 1921 and the Committee on the Indianisation of the Indian Army of 1922.

4. Subject to the above the sub-Committee arrived at the following definite resolutions:—

(1) The sub-Committee consider that with the development of the new political structure in India, the Defence of India must to an increasing extent be the concern of the Indian people, and not of the British Government alone.

(2) In order to give practical effect to this principle, they recommend—

(a) That immediate steps be taken to increase substantially the rate of Indianisation in the Indian Army to make it commensurate with the main object in view, having regard to all relevant considerations, such as the maintenance of the requisite standard of efficiency. (Mr. Jinnah dissented and desired a clear indication of the pace of Indianisation.)



(b) That in order to give effect to (a) a training college in India be established at the earliest possible moment, in order to train candidates for commissions in all arms of the Indian defence services. This college would also train prospective officers of the Indian State Forces. Indian cadets should, however, continue to be eligible for admission as at present to Sandhurst, Woolwich, and Cranwell.

(c) That in order to avoid delay the Government of India be instructed to set up a Committee of Experts, both British and Indian (including representatives of Indian States) to work out the details of the establishment of such a college.

(3) The Committee also recognise the great importance attached by Indian thought to the reduction of the number of British troops in India to the lowest possible figure and consider that the question should form the subject of early expert investigation.

5. A view was expressed that an addition should be made to these resolutions to the effect that the sub-Committee recognised that no action should be taken so as to prejudice in any way the power of the Crown to fulfil military obligations arising out of treaties with particular Indian States. It was ruled, however, and accepted by the sub-Committee that such a specific declaration was unnecessary; the Chairman giving an undertaking that neither this sub-Committee nor any other Committee could in any way abrogate treaty obligations and engagements that were in operation.

6. In agreeing to the foregoing recommendations the Committee were unanimous in their view that the declaration must not be taken as a mere pious expression of opinion, but that immediately the Conference was concluded, steps should be taken to deal effectively with the recommendations made.

7. The advisability of establishing a Military Council including representatives of the Indian States was agreed to.

Signed on behalf of the sub-Committee,

J. H. Thomas.

St. James's Palace,  
London,

14th January, 1931.

#### Sub-Committee No. VIII (Services).

Report Presented at the Meeting of the Committee of the Whole Conference, held on 16th January, 1931.

The terms of reference to this sub-Committee were as follows:—  
"The Relation of the Services to the new political structure."

The following Delegates were selected to serve on the sub-Committee:—

Sir William Jowitt (*Chairman*).  
 Lord Zetland.  
 Major Stanley.  
 Lord Reading.  
 Sir Robert Hamilton.  
 H. H. The Maharaja of Alwar.  
 H. H. The Maharaja of Nawanagar.  
 Sir Prabhashankar Pattani.  
 Rao Bahadur Krishnama Chari.  
 Sahibzada Sultan Ahmed Khan.  
 Mr. Chintamani.  
 Sir P. C. Mitter.  
 Dr. Narendra Nath Law.  
 Mr. Basu.  
 Mr. Tambe.  
 Sir Chimanlal Setalvad.  
 Mr. Shiva Rao.  
 Mr. Mody.

Sir Cowasji Jehangir.  
 Sir A. P. Patro.  
 Rai Bahadur Kunwar Bisheshwar Dayal Seth.  
 Maharajadhiraja Kameshwar Singh of Darbhanga.  
 Raja of Parlakimedi.  
 Dr. Ambedkar.  
 Lieutenant-Colonel H. A. J. Gidney.  
 Mr. Paul.  
 Sardar Sampuran Singh.  
 Sir Shah Nawaz Bhutto.  
 Mr. Ghuznavi.  
 Khan Bahadur Hafiz Hidayat Husain.  
 Mr. Zafrullah Khan.  
 Dr. Shafa 'at Ahmad Khan.  
 Mr. Fazl-ul-Huq.  
 Sir Edgar Wood.

The sub-Committee met on the 6th, 7th, 8th, 9th, 12th, and 13th of January, 1931, and have authorised me to present this Report.

1.—*Existing members of the Services*.—Inasmuch as the Government of India Act and the rules made thereunder by the Secretary of State in Council guarantee certain rights and safeguards to members of the Services, due provision should be made in the new constitution for the maintenance of those rights and safeguards for all persons who have been appointed before the new constitution comes into force.

When the new constitution is drawn up suitable safeguards for the payment of pensions (including family pensions) and provident funds, should be provided.

As it is important that those responsible for the working of the new constitution should not at its initiation be embarrassed by the economic waste and administrative difficulties which a change of staff on a large scale would entail, it is desirable to take such steps as are necessary to reassure existing members of the Services with the view that they may serve with loyalty and efficiency for their normal term.

To this end the sub-Committee agreed that the right to retire on proportionate pension should be extended, but opinion was divided as to whether the extension should be for an unlimited term or for a definite period of years, not exceeding five years.

2. *Future recruitment for the All-India Services*.—We recommend that for the Indian Civil and Indian Police Services recruitment should continue to be carried out on an All-India basis, but the majority of the Committee are of opinion that recruitment for Judicial Offices should no longer be made in the Indian Civil Service. The Indian Forest Service and the Irrigation Branch of the Indian Service of Engineers should be provincialised.

(Four members would prefer that the Irrigation Branch should remain an All-India Service.)

Mr. Shiva Rao and Mr. Tambe desire to record their view that all Services should be provincialised forthwith.

Dr. Ambedkar, Mr. Zafrullah Khan, and Sardar Sampuran Singh are averse to further recruitment on an All-India basis for the Indian Civil Service and the Indian Police Service, save in respect of the European element in those Services.)

3. *The recruiting and controlling authority for the future All-India Services.*—Since we are recommending that the Indian Forest Service and the Irrigation Branch of the Indian Service of Engineers should no longer be recruited on an All-India basis, we do not think it necessary to offer any special observations with regard to these two Services.

On the question whether we should record any recommendation as to the desirability of securing a continuance of the recruitment of a European element in the Indian Civil Service and the Indian Police Service there was some divergence of opinion.

The majority of the sub-Committee are of opinion that in the case of these two Services it is desirable that some recruitment of Europeans should continue. On the question of the ratio there is a difference of opinion, some holding that for the present recruitment should continue on the lines laid down by the Lee Commission, while others would prefer that the matter should be left for decision by the future Government of India.

Whatever decision may be reached as to ratio, the majority of the sub-Committee hold that the recruiting and controlling authority in the future should be the Government of India. They would leave to that authority the decision of all questions such as conditions of recruitment, service, emoluments and control. Those who take this view attach importance to complete control over the Services being vested in the Central and Provincial Governments. A minority of the sub-Committee think that the recruiting authority should be the Secretary of State, since they hold that without an ultimate right of appeal to him, and through him to the British Parliament, it will not be possible to secure recruits of the required type for the British element in the Services. Those who take this view consider that adequate control over the members of the Services can be secured to the Indian and Provincial Governments under the Devolution Rules.

There is one further observation we have to make under this head. In existing circumstances the Government of India can and does obtain officers from the Provinces to fill certain central appointments. Under the new regime we hope that it will be found possible to conclude arrangements between the Government of India and the Provincial Governments so as to secure the continuance of this practice which has obvious advantages.

4. *The Indian Medical Service.*—Subject to paragraph 1, the sub-Committee are of opinion that in future there should be no civil branch of the Indian Medical Service; and that no civil appointments either under the Government of India or the Provincial Governments should in future be listed as being reserved for Europeans as such.

The Civil Medical Services should be recruited through the Public

Service Commissions. In order to provide a war reserve, a clause should be inserted in the contracts of service of a sufficient number of officers that they shall undergo such military training and render such military service as they may be called upon to do. The extra cost involved should be borne as an Army charge.

Further, the Governments and Public Service Commissions in India should bear in mind the requirements of the Army and the British officials in India and take steps to recruit a fair and adequate number of European doctors to their respective Civil Medical Services, and should be prepared to pay such salaries as would bring about this result.

It is suggested that agreement might be reached between the Central Government and the Provincial Governments whereby the latter in selecting their European doctors might grant a preference to those members of the Indian Medical Service who have performed a period of service with the Army. We contemplate that such members would sever their connection with the Indian Medical Service during the term of their employment in the Provincial Medical Service—subject only to the acknowledgment of a claim by the Army authorities in time of emergency. The practical details of any such arrangement would have to be a matter of agreement between the Army authorities and each Provincial Government.

(Major Stanley wishes to make it clear that his acceptance of this section is contingent upon the possibility of securing satisfactory agreements under paragraph 4.

Lord Zetland and Sir Edgar Wood fear that under the scheme proposed neither the Provincial Governments nor the Indian Medical Service will secure European Medical Officers of the type required, and they would prefer that the present arrangement should continue until Indianisation both in the Indian Army and in the Civil Services has proceeded further.)

5. *Public Service Commissions*.—(1) In every Province and in connection with the Central Government a Statutory Public Service Commission shall be appointed by the Governor or Governor-General as the case may be.

(2) Recruitment to the Public Services shall be made through such Commissions in such a way as to secure a fair and adequate representation to the various communities consistently with considerations of efficiency and the possession of the necessary qualifications. This part of the duties of the Public Service Commissions shall be subject in the case of Provincial Commissions to periodical review by the Governor, and in the case of the Central Commission by the Governor-General, both of whom shall be empowered to issue any necessary instructions to secure the desired result.

(Raja Narendra Nath and Sardar Sampuran Singh desire to add a proviso that the proportion of appointments to be filled to redress communal, class and caste inequalities should not in any case exceed one-third of the total appointments to be filled, the remaining two-

thirds of the appointments being filled solely on considerations of merit.)

The Governor shall, before considering any appeal presented to him against any order of censure, of withholding an increment or promotion, of reduction to a lower post, of suspension, removal or dismissal, consult the Commission in regard to the order to be passed thereon.

(3) Members of the Public Service Commissions shall hold office during the pleasure of the Crown and be removable by the Governor, in the case of a Provincial Commission, and by the Governor-General in the case of the Central Commission. They shall, after ceasing to be members of a Commission, be ineligible for a period to be fixed by the Governor or Governor-General as the case may be for further office under the Crown in India, except that persons who have been members of a Provincial Public Service Commission shall be eligible for appointment as members of the Central Commission or of another Provincial Commission, and *vice versa*.

(4) The sub-Committee recognise the special position of the Anglo-Indian community in respect of public employment, and recommend that special consideration should be given to their claims for employment in the Services.

(5) There should be a statutory declaration that

(a) No person shall be under any disability for admission into any branch of the Public Services of the country merely by reason of community, caste, creed, or race.

(b) Membership of any community, caste, creed, or race shall not be a ground for promotion or supersession in any Public Services.

In making this recommendation the sub-Committee have particularly in mind the case of the Depressed Classes. They desire that a generous policy be adopted in the matter of the employment of the Depressed Classes in Public Service, and in particular recommend that the recruitment to all Services, including the Police, should be thrown open to them.

6. *Internal Administration of the Police.*—Subject to the recommendation which has already been made by the "Provincial Constitution" sub-Committee, that under the new constitution responsibility for law and order should be vested in the Provincial Governments, the question whether in consequence any special recommendation should be made as to the internal administration of the Police was left to this sub-Committee. We have given consideration to various suggestions made under this head. Some of the sub-Committee think it undesirable to make any recommendation which might be held to impinge upon the discretion of the future Provincial Governments. Others, who consider that the control over the Police Forces at present secured to the Inspectors-General by statute should be preserved, advise that the Police Act of 1861 should not be subject to repeal or alteration

by the Legislature without the prior consent of the Governor-General, and that the Police Acts of the Governments of Bombay, Bengal, and Madras should be included in the category of Acts which should not be repealed or altered by the Provincial Legislature without the previous sanction of the Governor-General.

7. *The Central Services.*—We recommend that the Government of India should be the authority for recruitment to the Services which are under the control of Ministers responsible to the Legislature. As regards the Services under the control of the Governor-General, we do not feel called upon to make any recommendation.

Signed on behalf of the sub-Committee.

W. A. Jowitt,  
Chairman.

St. James's Palace,  
London.  
13th January, 1931.

#### Sub-Committee No. IX (Sind).

Report presented at the Meeting of the Committee of the whole Conference, held on 16th January, 1931 (Auszug.)

1. The members of the sub-Committee were:—

(*Folgen 19 Namen.*)

The terms of reference were to consider—

“the question of constituting Sind as a separate Province.”

The sub-Committee sat on 12th, 13th and 14th January, and have authorised me to present this Report.

2. They consider that the racial and linguistic differences between the inhabitants of Sind and those of the Presidency of Bombay proper, the geographical isolation of Sind from Bombay, the difficulties of communication between the two, and the insistency with which separation has been advocated, provide an impressive case for the division of Sind from the Bombay Presidency and the creation of a separate Provincial Government there.

3. 4. (*Es folgen Bemerkungen, daß die verwaltungstechnischen Schwierigkeiten einer solchen Teilung nicht unüberwindlich erschienen, daß man sich jedoch über die durch eine solche auf finanziellem Gebiet eintretenden Konsequenzen — mangels ausreichender Unterlagen — kein Urteil habe bilden können.*)

Signed on behalf of the sub-Committee,

Russell.

St. James's Palace,  
London,  
14th January, 1931.

### Resolution.

Adopted by Conference unanimously at the final Plenary Session, held on 19th January, 1931.

The Conference sitting in Plenary Session has received and noted the Reports of the nine sub-Committees submitted by the Committee of the whole Conference with comments thereon.

These Reports, provisional though they are, together with the recorded notes attached to them, afford, in the opinion of the Conference, material of the highest value for use in the framing of a Constitution for India, embodying as they do a substantial measure of agreement on the main ground-plan, and many helpful indications of the points of detail to be further pursued. And the Conference feels that arrangements should be made to pursue without interruption the work upon which it has been engaged, including the provision in the Constitution of adequate safeguards for the Mussalmans, Depressed Classes, Sikhs, and all other important minorities.

### Speech Delivered by the Prime Minister.

at the final Plenary Session of the Conference, held on 19th January, 1931, at St. James's Palace (*Auszug*).<sup>12)</sup>

The view of His Majesty's Government is that responsibility for the government of India should be placed upon Legislatures, Central and Provincial, with such provisions as may be necessary to guarantee, during a period of transition the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by minorities to protect their political liberties and rights.

In such statutory safeguards as may be made for meeting the needs of the transitional period, it will be a primary concern of His Majesty's Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India through the new constitution to full responsibility for her own government.

His Majesty's Government, whilst making this declaration, is aware that some of the conditions which are essential to the working of such a constitution as is contemplated, have not been finally settled, but it believes that as the result of the work done here, they have been brought to a point which encourages the hope that further negotiations, after this declaration, will be successful.

His Majesty's Government has taken note of the fact that the deliberations of the Conference have proceeded on the basis, accepted by all parties, that the Central Government should be a Federation of all-India, embracing both the Indian States and British India in a bi-cameral legislature. The precise form and structure of the new Federal Government must be determined after further discussion with the Princes and representatives of British India. The range of subjects to be

<sup>12)</sup> Die Rede ist auch zu finden: Times vom 20. 1. 1931, S. 7.

Z. ausl. öff. Recht u. Völkerr. Bd. 2, T. 2: Urk.

committed to it will also require further discussion, because the Federal Government will have authority only in such matters concerning the States as will be ceded by their Rulers in agreements made by them on entering into Federation. The connection of the States with the Federation will remain subject to the basic principle that in regard to all matters not ceded by them to the Federation their relations will be with the Crown acting through the agency of the Viceroy.

With a Legislature constituted on a federal basis, His Majesty's Government will be prepared to recognise the principle of the responsibility of the Executive to the Legislature.

Under existing conditions the subjects of Defence and External Affairs will be reserved to the Governor-General, and arrangements will be made to place in his hands the powers necessary for the administration of those subjects. Moreover, as the Governor-General must, as last resort, be able in an emergency to maintain the tranquillity of the State, and must similarly be responsible for the observance of the constitutional rights of Minorities, he must be granted the necessary powers for these purposes.

As regards finance, the transfer of financial responsibility must necessarily be subject to such conditions as will ensure the fulfilment of the obligations incurred under the authority of the Secretary of State and the maintenance unimpaired of the financial stability and credit of India. The Report of the Federal Structure Committee indicates some ways of dealing with this subject including a Reserve Bank, the service of loans, and Exchange policy, which, in the view of His Majesty's Government, will have to be provided for somehow in the new constitution. It is of vital interest to all parties in India to accept these provisions, to maintain financial confidence. Subject to these provisions the Indian Government would have full financial responsibility for the methods of raising revenue and for the control of expenditure on non-reserved services.

This will mean that under existing conditions the Central Legislature and Executive will have some features of dualism which will have to be fitted into the constitutional structure.

The provision of reserved powers is necessary in the circumstances and some such reservation has indeed been incidental to the development of most free constitutions. But every care must be taken to prevent conditions arising which will necessitate their use. It is, for instance, undesirable that Ministers should trust to the special powers of the Governor-General as a means of avoiding responsibilities which are properly their own, thus defeating the development of responsible Government by bringing into use powers meant to lie in reserve and in the background. Let there be no mistake about that.

The Governors' Provinces will be constituted on a basis of full responsibility. Their Ministries will be taken from the Legislature and will be jointly responsible to it. The range of Provincial subjects will be so defined as to give them the greatest possible measure of self-



government. The authority of the Federal Government will be limited to provisions required to secure its administration of Federal subjects, and so discharge its responsibility for subjects defined in the constitution as of all-India concern.

There will be reserved to the Governor only that minimum of special powers which is required in order to secure, in exceptional circumstances, the preservation of tranquillity, and to guarantee the maintenance of rights provided by Statute for the Public Services and minorities.

Finally, His Majesty's Government considers that the institution in the Provinces of responsible government requires both that the Legislatures should be enlarged, and that they should be based on a more liberal franchise.

In framing the Constitution His Majesty's Government considers that it will be its duty to insert provisions guaranteeing to the various minorities, in addition to political representation, that differences of religion, race, sect or caste, shall not themselves constitute civic disabilities.

In the opinion of His Majesty's Government it is the duty of the communities to come to an agreement amongst themselves on the points raised by the Minorities sub-Committee but not settled there. During the continuing negotiations such an agreement ought to be reached and the Government will continue to render what good offices it can to help to secure that end, as it is anxious not only that no delay should take place in putting the new Constitution into operation, but that it should start with the goodwill and confidence of all the communities concerned.

The various sub-Committees which have been studying the more important principles of a Constitution which would meet Indian conditions have surveyed a considerable part of the structure in detail and the still unsettled points have been advanced a good way to an agreement. His Majesty's Government, however, in view of the character of the Conference and of the limited time at its disposal in London, has deemed it advisable to suspend its work at this point, so that Indian opinion may be consulted upon the work done, and expedients considered for overcoming the difficulties which have been raised. His Majesty's Government will consider, without delay, a plan by which our co-operation may be continued so that the results of our completed work may be seen in a new Indian Constitution. If, in the meantime, there is a response to the Viceroy's appeal to those engaged at present in civil disobedience, and others wish to co-operate on the general lines of this declaration, steps will be taken to enlist their services.

I must convey to you all on behalf of the Government its hearty appreciation of the services you have rendered not only to India but to this country, by coming here and engaging in these personal negotiations. Personal contact is the best way of removing those unfortunate differences and misunderstandings which too many people on

both sides have been engendering between us in recent years. A mutual understanding of intention and difficulty, gained under such conditions as have prevailed here, is by far the best way for discovering ways and means of settling differences and satisfying claims. His Majesty's Government will strive to secure such an amount of agreement as will enable the new Constitution to be passed through the British Parliament and to be put into operation with the active goodwill of the people of both countries.

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## Anhang.

### Verzeichnis der englischen Regierungsdrucksachen zur Reform der Indischen Verfassung von 1927 und ff.

#### 1927.

East India (Constitutional Reforms). Indian Statutory Commission. Statement published on November 8, 1927, by the Governor-General of India. Cmd. 2986.

Government of India. (Statutory Commission) House of Lords Bill. To amend Section 84 A of the Government of India Act with respect to the time for the appointment of a Statutory Commission thereunder. Nr. 114. — Desgl. House of Commons Bill Nr. 204. Gesetz geworden als: Government of India (Statutory Commission) Act, 1927 (17 & 18 Geo. 5 Ch. 24).

#### 1928.

East India (Constitutional Reforms). Indian Statutory Commission. Letter from the Chairman to the Governor-General of India. Cmd. 3029.

Indian Constitutional Reform. Views of Local Governments on the working of the Reforms, dated 1927. Non-Parliamentary Publication (Miscellaneous) 70.0230.00.00.

#### 1929.

East India (Indian States). Report of the Indian States Committee, 1928—29. Cmd. 3302.

Indian Statutory Committee. Interim Report. (Review of growth of Education in British India by the Auxiliary Committee appointed by the Commission.) September, 1929. Cmd. 3407.

East India (Constitutional Reforms). Report of the Indian Central Committee, 1928—29. December, 1929. Cmd. 3451.

#### 1930.

East India (Constitutional Reforms). Supplementary Note, dated October 15, 1929, by Dr. Abdullah Al-M'amun Suhrawardy, M. L. A. (Member of the Indian Central Committee), to the Report of the Indian Central Committee, 1928—29 (Cmd. [3451]). Cmd. 3525.

Indian Statutory Commission:

Report, Vol. I. Survey. May, 1930. Cmd. 3568.

Report, Vol. II. Recommendations. May, 1930. Cmd. 3569.

Report, Vol. III. Report of the Committees appointed by the Provincial Legislative Councils to co-operate with the Indian Statutory Commission. May, 1930. Cmd. 3572.

Memoranda submitted by Governments to the Indian Statutory Commission:

Volumes:

IV. Government of India and the India Office. (Part. I.) Non-Parliamentary Publication (Miscellaneous) 70.0240.04.00.

V. Government of India and the India Office. (Part. II.) Desgl. 70.0240.05.00.

VI. Government of Madras.

Desgl. 70.0240.06.00.

VII. Government of Bombay. Desgl. 70.0240.07.00.

VIII. Government of Bengal. Desgl. 70.0240.08.00.

IX. Government of United Provinces. Desgl. 70.0240.09.00.

X. Government of Punjab. Desgl. 70.0240.10.00.

XI. Government of Burma. Desgl. 70.0240.11.00.

XII. Government of Bihar and Orissa. Desgl. 70.0240.12.00.

XIII. Government of Central Provinces. Desgl. 70.0240.13.00.

XIV. Government of Assam. Desgl. 70.0240.14.00.

XV. Extracts from Official Oral Evidence. Desgl. 70.0240.15.00.

XVI. Selections from Memoranda and Oral Evidence by Non-Officials. Part I. Desgl. 70.0240.16.00.

XVII. Selections from Memoranda and Oral Evidence by Non-Officials. Part II. Desgl. 70.0240.17.00.

East India (Constitutional Reforms). Government of India's Despatch on Proposals for Constitutional Reform, dated September 20, 1930. Cmd. 3700.

East India (Constitutional Reforms). Despatches from Provincial Governments in India containing Proposals for Constitutional Reform. November, 1930. Cmd. 3712.

East India (Events Preliminary to the Round-Table Conference). Statement issued on September 5 by Sir Tej Bahadur Sapru and Mr. M. R. Jayakar, of the Course of their Conversations with the Congress Leaders, July-September 1930. Cmd. 3728.

1931.

Indian Round Table Conference, November 12, 1930—January 19, 1931. Sub-Committees' Reports, Conference Resolution and Prime Minister's Statement. Cmd. 3772. — Abgedr. oben S. 443 ff.

- Indian Round Table Conference. Proceedings. Cmd. 3778.  
 Indian Round Table Conference, Proceedings of Sub-Committees,  
 Part. I. (Sub-Committee No. 1. Federal Structure). 1931.  
 Indian Round Table Conference, Proceedings of Sub-Committees,  
 Part. II. (Sub-Committees II–IX). 1931.  
*Abgeschlossen Mai 1931.*

#### 4) Südaustralien.

##### **Ausnahmegesetz vom 5. September 1930 <sup>1)</sup>**

**Public Safety Preservation Act. — 1930 (South Australia Acts, 21 Georgii V, Nr. 1951).**

An Act to make Provision for the Protection of the Community in Cases of Emergency.  
 (Assented to, September 5th, 1930.)

Be it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title and operation.

1. This Act may be cited as the »Public Safety Preservation Act, 1930«, and shall remain in operation for a period of six months from the commencement thereof.

Power to proclaim state of emergency.

2. (1) Where at any time it appears to the Governor that any circumstances exist, or are likely to come into existence, whereby the public safety or order is, or is likely to be imperilled, the Governor may by proclamation (in this Act referred to as »proclamation of emergency«) declare that a state of emergency exists.

(2) Every such proclamation shall be in force for the period specified therein not exceeding one month but may be extended or revived by another proclamation of emergency issued before, at or after the end of that period.

(3) When a proclamation of emergency is in force the Governor may exercise all or any of the powers hereinafter conferred upon him by or under this Act.

(4) Any regulations made under this Act shall remain in force for the period therein specified not exceeding the period during which a proclamation of emergency is in force. Any regulations, however, which cease to be in force by reason of the expiration of a proclamation of emergency before another proclamation of emergency has been made, may be revived either in whole or in part by any subsequent proclamation of emergency.

Regulations as to public safety or order.

3. Pursuant to the powers conferred by this Act the Governor may make regulations for or with respect to —

(a) securing public safety or order:

<sup>1)</sup> Zum: »Recht des Ausnahmestandes im Auslande« vgl. die gleichnamige Schrift, bearbeitet im Institut für ausländisches öffentliches Recht und Völkerrecht (Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, Heft 9, 1928).