

INDIAN CONSTITUTIONAL REFORMS

**REVISED LISTS OF ALL-INDIA, PROVINCIAL AND
TRANSFERRED SUBJECTS, AS PROPOSED
BY THE GOVERNMENT OF INDIA.**

ALL-INDIA SUBJECTS.

Subjects.

Remarks.

1. All questions connected with His Majesty's naval, military and air forces in India, including the Royal Indian Marine, volunteers, cadets, and armed forces, other than military and armed police maintained by provincial Governments.

1-A. Ordnance, munitions, censorship, compulsory purchases, requisitioning, prize courts, registration of mechanical transport, etc., for naval and military purposes.

2. External relations, including naturalisation and aliens.

3. Relations with Native States.

3-A. Political charges.

3-B. Regulation of ceremonial, including titles and orders, precedence and darbars, and civil uniforms.

4. Any territory in British India other than a province mentioned in the schedule.

4-A. The Andaman and Nicobar Islands.

4-B. Territorial changes other than intra-provincial, and declaration of laws.

5. Excluded areas* ...

6. Communications—to the extent described under the following heads:—

(a) Railways and tramways, except (i) tramways within municipal areas and (ii) light and feeder railways and tramways.

(b) Such roads, bridges, ferries, tunnels, ropeways, causeways, and other means of communication as are declared by the Governor General in Council to be of military importance.

(c) Aircraft, aircraft factories, aerodromes, and landing places.

The schedule will include the eight provinces to which the reform scheme applies.

These are the backward areas referred to in paragraph 199 of the Joint Report which it is suggested should be administered by the Governor under the control of the Government of India.

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Subjects.	Subjects.	Remarks
(c) Tramways within municipal areas.		
(d) Light and feeder railways and tramways.		
6. Control of water supplies in rivers, streams and lakes, irrigation and canals, drainage and embankments, water storage and water power, subject to such rules in regard to technical scrutiny and financial sanction as may be prescribed.		
7. Land Revenue administration, as described under the following heads:—	<i>Vide</i> para. 61 of the fourth despatch.	
(a) Assessment and collection of land revenue :		
(b) Maintenance of land records, survey for revenue purposes, records of rights :		
(c) Laws regarding land tenures, relations of landlords and tenants, collection of rent :		
(d) Court of Wards, encumbered and attached estates :		
(e) Land improvement and agricultural loans.		
(f) Colonization and disposal of Crown lands and alienation of land revenue.		
7.-A. Management of State properties.		
8. Famine relief.		
9. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.		
10. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases.		
11. Fisheries.		
12. Co-operative Societies.		
13. Forests, including preservation of game therein.		
14. Land acquisition, subject to Indian legislation as regards acquisition of land for public purposes.		
	15. Excise, that is to say the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	
	16. Administration of justice, including the constitution, maintenance and organization of courts of justice in the province, both of civil and criminal jurisdiction, other than a High Court, a Chief Court, or the Court of a Judicial Commissioner, but subject to Indian legislation as regard courts of criminal jurisdiction.	
	17. Provincial law reports.	
	18. Administrator-General and Official Trustee, subject to Indian legislation.	
	19. Judicial stamps, subject to Indian legislation.	
	20. Registration of deeds and documents.	
	21. Registration of births, deaths and marriages.	
		Existing Indian legislation provides for the following classes, <i>viz.</i> , members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and all persons professing the Christian religion.
	22. Religious and charitable endowments.	
	23. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.	
	24. Development of industries, including industrial research.	<i>Vide</i> 22.-A. All India.
	25. Industrial matters included under the following heads:—	
	(a) Factories :	
	(b) Settlement of labour disputes :	
	(c) Electricity :	
	(d) Boilers :	
	(e) Gas :	
		This entry is provisional on the contemplated Indian Act on this subject being secured from alteration by rules under the proposed section 79 (3) (i) of the Government of India Act.
		Inspectors of Factories, Electricity and Boilers are provincial officers under the control of the local Governments, but we consider that there are strong grounds for maintaining uniformity in regard to the four matters which are made subject to Indian legislation. As regards the other subjects, especially those included under "Welfare of labour," it is desirable to give the provinces freedom of initiative.

Subject.	Remarks.
31. Ecclesiastical administration.	The expenditure is incurred entirely by the Government of India. The Bishops and clergy are under the administrative control of the local Governments, except that the Bishop of Calcutta as Metropolitan is under the control of the Government of India. As a large portion of the expenditure is on behalf of the army, the subject must be an All-India one.
31-A. Higher language examinations to an extent to be declared by the Governor General in Council.	
32. Survey of India	
33. Archaeology	
34. Zoological survey.	
35. Meteorology.	
36. Census and Statistics.	
37. All-India Services.	
37-A. Government servants' conduct rules.	
38. Legislation in regard to any provincial subject, in so far as such subject is stated in the Provincial List to be subject to Indian legislation, and any powers relating to such subject reserved by legislation to the Governor-General in Council.	Provisionally included: vide para. 39 of the despatch.
39. All matters expressly excepted from inclusion in the list of provincial subjects.	
40. All other matters not included in the list of provincial subjects.	

PROVINCIAL SUBJECTS.

Subjects.	Remarks.
1. Local self-government, that is to say matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, sanitary boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act.	
2. Medical administration, including hospitals, dispensaries and asylums.	Legislation regarding the status and civil rights and liabilities of lunatics is an all-India subject. The question of medical registration falls under head 42.
3. Public health and sanitation and vital statistics.	
3-A. Pilgrimages within British India.	
4. Education (excluding—	
(1) the Benares Hindu University and such other new universities as may be declared to be all-Indian by the Governor General in Council.	
(2) Chiefs' colleges and any educational institutions maintained by the Government of India);	
subject to Indian legislation—	
(a) controlling the establishment, and regulating the constitutions and functions of new universities; and	
(b) defining the jurisdiction of any university outside its own province;	
and, in the case of Bengal, up till the time when the recommendations of the first statutory commission are carried into effect, subject to Indian legislation with regard to the Calcutta University and the control and organisation of secondary education.*	
5. Public Works included under the following heads:—	
(a) Provincial buildings;	
(b) Roads, bridges, ferries, tunnels, ropeways, causeways and other means of communication other than such as are declared by the Governor General in Council to be of military importance.	

Subjects.	Remarks.	Subjects.	Remarks.
(c) Tramways within municipal areas.		15. Excise, that is to say the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	
(d) Light and feeder railways and tramways.		16. Administration of justice, including the constitution, maintenance and organization of courts of justice in the province, both of civil and criminal jurisdiction, other than a High Court, a Chief Court, or the Court of a Judicial Commissioner, but subject to Indian legislation as regard courts of criminal jurisdiction.	
6. Control of water supplies in rivers, streams and lakes, irrigation and canals, drainage and embankments, water storage and water power, subject to such rules in regard to technical scrutiny and financial sanction as may be prescribed.		17. Provincial law reports.	
7. Land Revenue administration, as described under the following heads:—	<i>Vide para. 61 of the fourth despatch.</i>	18. Administrator-General and Official Trustee, subject to Indian legislation.	
(a) Assessment and collection of land revenue :		19. Judicial stamps, subject to Indian legislation.	
(b) Maintenance of land records, survey for revenue purposes, records of rights :		20. Registration of deeds and documents.	
(c) Laws regarding land tenures, relations of landlords and tenants, collection of rent :		21. Registration of births, deaths and marriages.	Existing Indian legislation provides for the following classes, <i>viz.</i> , members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and all persons professing the Christian religion.
(d) Court of Wards, encumbered and attached estates :		22. Religious and charitable endowments.	This entry is provisional on the contemplated Indian Act on this subject being secured from alteration by rules under the proposed section 79 (3) (i) of the Government of India Act.
(e) Land improvement and agricultural loans.		23. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.	
(f) Colonization and disposal of Crown lands and alienation of land revenue.		24. Development of industries, including industrial research.	<i>Vide 22.-A. All-India.</i>
7.-A. Management of State properties.		25. Industrial matters included under the following heads:—	Inspectors of Factories, Electricity and Boilers are provincial officers under the control of the local Governments, but we consider that there are strong grounds for maintaining uniformity in regard to the four matters which are made subject to Indian legislation. As regards the other subjects, especially those included under "Welfare of labour," it is desirable to give the provinces freedom of initiative.
8. Famine relief.		(a) Factories :	
9. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.		(b) Settlement of labour disputes :	
10. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases.		(c) Electricity :	
11. Fisheries.		(d) Boilers :	
12. Co-operative Societies.		(e) Gas :	
13. Forests, including preservation of game therein.			
14. Land acquisition, subject to Indian legislation as regards acquisition of land for public purposes.			

LIST OF PROVINCIAL SUBJECTS FOR TRANSFER,

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
1	1	Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act.	In all provinces	The question of control, if any, to be exercised over policemen or watchmen by local authorities should be left to be determined by provincial legislation relating to local self-government. Pounds, where they are managed by local authorities, will come under local self-government.
2	2	Medical administration, including hospitals, dispensaries and asylums.	In all provinces	It will be noted that it is proposed to reserve "Regulations of medical and other professional qualifications and standards," and to make this matter subject to Indian legislation (<i>vide</i> Provincial List, item 42). The administration of the Medical Registration Acts will thus be reserved, and the power of securing uniformity of standards will remain with the Indian legislature.
3	3	Public health and sanitation and vital statistics.	In all provinces	"Port quarantine and marine hospitals" is an all-India subject. The Sanitary Department will be responsible for the compilation of vital statistics, but at present in most provinces will have to rely on the services of other departments for their collection.
3-A.	3-A.	Pilgrimages within British India.	In all provinces	

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Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
4	4	Primary and middle vernacular education.	In all provinces	It is suggested that the Governor shall be required to have special regard to certain interests in education (<i>vide</i> paragraph 67).
5	5	Public Works included under the following heads :— (a) provincial buildings connected with transferred departments : (b) Roads, bridges, ferries, tunnels, ropeways, causeways and other means of communication other than such as are declared by the Governor General in Council to be of military importance : (c) Tramways within municipal areas.	In all provinces except Assam.	
6	9	Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.	In all provinces.	
7	10	Civil Veterinary Department, including provision for veterinary training, improvement of stock and prevention of animal diseases.	In all provinces.	
8	11	Fisheries ...	In all provinces except Assam.	In Assam the restrictive measures taken for the protection of fish have been unpopular, and the administration of fisheries is closely connected with the Land Revenue Department.

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
9	12	Co-operative Societies ...	In all provinces.	
10	13	Forests, including preservation of game therein.	In Bombay only	The existing powers of the Governor-General in Council under the Forest Act will remain, and any provincial legislation affecting them will be subject to previous sanction.
	15	Excise, that is to say the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	In all provinces except Assam.	With reference to the proposed restriction of the purposes for which the Government of India will exercise their power to intervene in transferred subjects (<i>vide</i> para. 4 of the despatch), the following points affecting Excise require special mention :— (1) The power of the Government of India to safeguard the administration of customs revenue will involve power to control the incidence of excise revenue (i) on any liquor which is likely to compete directly with imported liquor, and (ii) on any article imported into British India which is liable on importation to the payment of customs duty. (2) With regard to provincial action restricting the introduction into a province of excisable articles the position will be as follows :— The Government of India will be entitled to intervene, in the case of excisable articles imported from outside British India, to protect their custom duties, and, in the case of excisable articles in transit from or to other provinces, territories and States of India, for the purpose of protecting the interests of such other provinces, territories or States.



Serial No.	Number in pro. vinctial list.	Subjects.	Provinces in which transferred.	REMARKS.
				(3) The Government of India will be entitled to intervene in matters affecting the supply of excisable articles to His Majesty's forces. In Madras and Bombay, Excise, Salt and Customs, are dealt with under a unified system of administration. Salt and Customs are all-India subjects, and the question of making arrangements for the separate administration of these subjects when the transfer of Excise takes effect will be considered by the Government of India.
12	20	Registration of deeds and documents. <i>268</i>	In all provinces.	
13	21	Registration of births, deaths and marriages.	In all provinces	<i>Vide</i> note to item 21, provincial list.
14	22	Religious and charitable endowments.	In all provinces.	
15	26	Adulteration of food stuffs and other articles. <i>32</i>	In all provinces.	
16	27	Weights and measures. <i>268</i>	In all provinces.	
17	39	Museums (except the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta) and zoological gardens.	In all provinces.	

SEVENTH DESPATCH

ON

INDIAN CONSTITUTIONAL REFORMS

(Grand Committee.)

No. 5 of 1919.

GOVERNMENT OF INDIA.
HOME DEPARTMENT.

REFORMS.

To

THE RIGHT HONOURABLE EDWIN MONTAGU,

His Majesty's Secretary of State for India.

Simla; May 28, 1919.

SIR,

In para. 80 of our despatch of March 5, 1919, we informed you that we were in communication with local Governments in regard to the composition of the grand committee and would present our detailed proposals to you in our second despatch. We are now in a position to lay our views before you. We regret the delay which has occurred, but the composition of the grand committee is so closely related to the size and composition of the provincial legislative councils that we could only consider it in the light of the proposals of Lord Southborough's franchise committee.

2. The question is of fundamental importance in view of the functions assigned to the grand committee, and we make no apology for recalling briefly the weighty considerations that are involved. The grand committee was devised by the authors of the Report (para. 252) as a means of obtaining legislation which the Governor considers essential for the peace of his province or for the discharge of his responsibility for those duties of Government which are not made over to ministers. It was emphasized that recourse to a grand committee should not be had without strong reason; but it was also made clear that there would be no other constitutional mechanism for passing a law essential to the fulfilment by the official government of its own particular duties towards Parliament, if the law in question happened to be distasteful to a majority in the legislative council, and if there was thus no assurance that it would be passed by that body. The position was developed in our despatch of March 5 (paras. 110 and 80). We pointed out that, while the influence of the popular side of the provincial Government must steadily grow, the standards of administration within the field of work for which Parliament continues to hold the official government responsible must be maintained, and the Governor must resolutely use his powers to prevent them from deteriorating. As good administration is ultimately based on good laws, it follows that the Governor's power over legislation, in all matters for which his is the direct responsibility, must be effective. We concluded therefore that when the situation is such that the Governor deliberately withdraws a measure from the council and refers it to a grand committee, he should be secured from prospects of failure. Local Governments, we added, were not satisfied with the position described in the Report. They felt strongly that the grand committee procedure had been made too difficult, and that the majority offered to Government was too uncertain for practical purposes.

3. The authors of the Report proposed (para. 252) that the grand committee in every council should be so constituted as to comprise from 40 to 50 per cent of the council; that the Governor should have power to nominate a bare majority, exclusive of himself; that not more than two-thirds of the majority should be officials; and that the nominated non-officials should be at least partly

(one-third of a bare majority) of the members from among the non-official members of the council. The nominated non-officials are not sufficiently numerous, nor are they likely always to be of a suitable type, to serve his purpose. The elected non-officials cannot be counted upon to help the Governor to pass a measure which may not happen to be popular, however essential he may consider it to good administration. From this dilemma the way of escape lies in considering the underlying intention of the authors of the Report when they were devising the mechanism of the grand committee. As they explain in para. 252, their first endeavour was to make the grand committee in each province a microcosm of the existing council; but difficulty was found in securing due proportional representation of the various interests reflected in the new councils,—a difficulty, we may note, which must attach more or less to any epitome, so to speak, of the full council. The Report then turned to a reproduction on more general lines of the constitution of the existing legislatures in the provinces; and we understand that its final proposals were based on the principle—alluded to in para. 80 of our first despatch—of giving the official Government in each province at least as good a chance of securing essential legislation in the grand committee as it has, through the combination of official and nominated non-official votes, in its existing legislative body. This purpose was defeated in the first place by the proposal being stated in the form of an average for all the provinces, which did not give sufficient play for existing local variations. In the second place the wide extension of the elective principle will upset the balance of power; and one of the three elements in our present councils—the nominated non-official—will practically disappear as an effective force in the new constitution.

8. In its essence, however, we can get back to the purpose and spirit of the Report by reproducing in the grand committee the broad relation between official and non-official voting power which obtains under the present law in our existing councils. The simplest method of doing this would be to make each grand committee of the same size, and provide it with the same number of official members, as the regulations permit for the legislature of the province to-day. The table below shows that this unfortunately is impracticable:—

Province.	Composition of present Council, as permitted by existing regulations.			Ratio of officials to total strength.	Number of officials provided by franchise committee.
	Official.	Non-official.	Total.		
1	2	3	4	5	6
Madras	21	26	47	45%	18
Bombay	19	28	47	40%	17
Bengal	21	32	53	40%	19
United Provinces	21	27	48	44%	17
Punjab	12	17	29	41%	16
Bihar and Orissa	19	25	44	43%	15
Central Provinces	11	14	25	44%	11

(The legal maximum strength—excluding members of the executive council—for each of these provinces is 50, except in the Punjab and the Central Provinces where it is 30. The maximum is imposed only in the Bengal Regulations).

The difficulty is, as the last column makes clear, that on our new Councils we shall not have nearly enough official members to let us reproduce in our grand committees the size and proportions of our existing legislatures. In column 5 of the statement, however, we have the key to the situation. Let us determine for each province the number of official councillors who ought to be available for grand committee duty, and then let us construct a grand committee in which they will bear the same proportion to the total strength as the official element does in the existing council. For example, in Bombay, the permissible element in the existing council is 40 per cent. If we assume that, under the new

arrangements, the Governor of Bombay can count upon 14 official members of the legislature as available for his grand committee, then the total strength of the committee will be 35, of whom 40 per cent or 14 will be officials, and 60 per cent or 21 will be non-officials. But out of this total number of 35 he has to have the nominating of a bare majority. There will thus be altogether 18 nominated members, of whom 14 will be official and 4 non-official; and the other 17 members will be elected to the committee.

9. We hope that this proposal is intelligible enough to allow us now to set it forth in tabular form for each province. We have assumed that a margin of three officials (members of the executive council, etc.) should be left in the presidencies, and a margin of two in the other provinces, as not available for duty on every grand committee. From the number of available officials thus left for duty on the committee, we deduce the strength of the committee by applying the ratio shown in column 5 of the table in the last paragraph; and the results are as follows:—

—	Number of officials available for grand committee duty.	Accepted ratio of officials.	Deducted strength of grand committee.	Distribution.		
				Officials.	Nominated non-officials.	Elected.
1	2	3	4	5	6	7
		Per cent.				
Madras	15	45	33	15	2	16
Bombay	14	40	35	14	4	17
Bengal	16	40	41	16	5	20
United Provinces	15	44	35	15	3	17
Punjab	13	41	31	13	3	15
Bihar and Orissa	13	43	31	13	3	15
Central Provinces	9	44	21	9	2	10

The figures in Column 4 have been adjusted very slightly so as to place the nominated section of the committee in each case in a bare majority of one.

10. We have considered another variant. This would be a grand committee bearing a uniform ratio in all provinces to the size of the full council, and composed of officials and non-officials in the same ratio as in the existing councils. If we take the committee as one-third of the council—and it could hardly be smaller—the figures would be as follows:—

—	Size of council.	Size of grand committee.	Accepted ratio of officials.	Distribution.		
				Officials.	Nominated non-officials.	Elected.
1	2	3	4	5	6	7
			Per cent.			
Madras	118	39	45	17	3	19
Bombay	111	37	40	15	4	18
Bengal	125	42	40	17	5	20
United Provinces	118	39	44	17	3	19
Punjab	83	28	41	12	3	13
Bihar and Orissa	98	33	43	14	3	16
Central Provinces	70	23	44	10	2	11

The difficulty about this scheme is that it takes too heavy a toll of the officials; at a pinch every official member of the council in the United Provinces would have to sit on a grand committee, and every member but one in Madras, Bihar and Orissa and the Central Provinces. This is a practical objection which leads us to prefer the alternative described in the preceding paragraph.

11. The proposals in para. 9 then represent our matured recommendation. They differ from the Report in that the strength of the grand committee will vary from province to province; in the Punjab it will be 37 per cent of the strength of the new Council, in Bengal 33 per cent, in Bihar and Orissa 32 per cent, in Bombay 31 per cent, in the United and Central Provinces 30 per cent, and in Madras 28 per cent. It will be remembered that the franchise committee recommended an all round ratio of 30 per cent, so that our proposals are in this respect more liberal than theirs. What we now advise differs from the report also in giving an official element which is not strictly limited to 34 per cent of the whole strength of the committee; but it complies with the spirit of the Report in putting the relative voting power of the officials and the non-officials on precisely the same footing as in the present legislative bodies. It aims at placing the official Government in neither a better nor a worse position than it enjoys at present; and we are confident that it will not give the Government greater power than it can at any moment assume under the existing regulations. Besides our claim that our proposals carry out the definite intentions of the authors of the Report, we believe that only in this way is it possible to ensure that the grand committee will be capable of discharging the duties which are expected of it. We are fully alive to the disadvantages of the official *bloc*, but we are frankly convinced that the necessary security is not, under present conditions, to be obtained in a legislative body in which the official element is reduced to a virtual maximum of one-third. We cannot urge too earnestly that, for the discharge of his heavy responsibilities, the Governor should find in his grand committee a sure staff, and not an unstable reed, and that he should not be placed in a worse position *vis-à-vis* his grand committee of the future than that in which he is to-day *vis-à-vis* his existing council.

12. For the elective element in the grand committee we accept the proposals in the report. It will be chosen, in the case of each committee, by the elected members of the council on the system of the transferable vote.

13. Our colleague Sir Sankaran Nair has in his minute of dissent given his reasons for adhering to the proposals made by the authors of the reforms report.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

(Sd.) CHELMSFORD.

„ C. C. MONRO.

„ C. SANKARAN NAIR.

„ W. H. VINCENT.

„ J. S. MESTON.

„ T. HOLLAND.

„ R. A. MANT.

Minute of Dissent.

In my Minute of Dissent to our first Despatch, I expressed the view that the device of the Grand Committee to obtain legislation considered essential by the Governor is not really necessary in view of the fact that the Governor-General in Council will continue to have the right of concurrent legislation for the Provinces. I need not here reiterate the arguments. Recent events in the Punjab give additional strength to those arguments. Proceeding on the assumption that Grand Committees will be constituted, I am clearly of opinion that their composition should be as is laid down in the report and not as my Colleagues now suggest. In our first Despatch, they urged that in the composition of a Grand Committee there should be reproduced the proportions of elected, nominated and official members in the existing Provincial Legislative Councils. Now, after considering the recommendations of the Franchise committee on the composition of the Councils, they give up their earlier proposal and put forward other proposals which, in my view are equally unacceptable. My Colleagues would reduce the size of the Grand Committee from forty to fifty per cent as proposed in the Reforms Report to 37 per cent of the strength of the new Council in the Punjab to 33 per cent in Bengal and to a smaller proportion in the other provinces. They also propose to increase the official element. These proposals are intended to reproduce in the Grand Committee the broad relation between the official and non-official voting powers which obtains under the Regulations in our existing Councils. There were two reasons which induced the authors of the Reforms Report to discard the suggestion that the official proportion should be reproduced in the Grand Committee and that the latter should comprise any proportion less than 40 to 50 per cent of the strength of the new Councils. They found that in order to secure the due representation of the interests represented by communal and special electorates without reducing the representation of the interests represented by the general electorates, we must have a Grand Committee which must comprise 40 to 50 per cent of the strength of the new Councils and that we must also reduce the official element. This argument has not been met by my Colleagues. So far as I can see, we cannot secure the due representation of the special and communal interests and of the interests represented by the general electorates in the Grand Committee as they will be constituted by my Colleagues. Considering the importance of the legislative measures that will be placed before it, according to the Reforms Report, and, a fortiori, according to the proposals of my Colleagues in the Despatch on the Report of the Functions Committee, it seems to me essential that all such interests must be duly represented and that the Committee must consist of a number not less than 40 to 50 per cent of their strength. The Grand Committee, according to my Colleagues, will consist of a smaller number than the existing Legislative Councils with the result that the measures relating to the reserved subjects which consist of the more important subjects, will be passed by a Council which would not carry the same weight as even the existing Legislative Councils. In order to support their proposal, my Colleagues have to assume that they will not be able to make all the officials in the Councils available for the purpose of every Grand Committee, while every elected member will be so available. They assume that they will not be able to rely on what they call the more conservative elements in the community. They do not like to carry their contentious government measures by the votes of persons nominated to represent the depressed classes, Anglo Indians, Indian Christians, labour and other interests of a sectional character. They have also to assume that the elected non-officials in a body will be opposed to them. I do not think we are entitled to make any such assumptions in putting forward legislative proposals for reform. Further, they will accept the number of officials provided by the Franchise Committee, while they would reject the composition of the Grand Committee, for which the Franchise Committee have provided that number.

There are further certain other assumptions underlying the proposals of my Colleagues which I am unable to accept. It is assumed that the effect of the growing influence or the control of the legislature over the Provincial Government would be a deterioration of the standards of administration. I see no reason for making any such assumption. On the other hand the past work of the elected members of legislative Councils would justify the contrary assumption. If we are not prepared to assume that Legislative Councils will bring a sense of responsibility to bear upon their public work; if, on the contrary, we must assume that their tendency will always be in the direction of a lowering of the standards of administration and that it becomes the constant duty of the Governor to keep a vigilant watch over

such a tendency in the Council and to act on his individual responsibility as if he alone was concerned for good Government, the logical conclusion could not be resisted that it would be far better, in the interests of the country, to abolish the Councils altogether and frankly to invest the Governor with undivided power and responsibility. As no such move is contemplated, as, on the contrary, the whole purpose of the reforms is to make the Government more popular and more constitutional by making Legislative Councils larger and more representative and by endowing them with real control and greater influence over the administration in the transferred and reserved spheres respectively, we should courageously act on the footing that these Councils will be competent to discharge the duties laid upon them and will, as a rule, act with good sense and public spirit. If this is so, it must follow that the Governor should, as a rule, act with the concurrence of the Legislative Council; that he should carry even the legislation in reserved subjects, as a rule, through the Council, and that he must regard his power of certification as an exceptional power that should only be brought into play sparingly.

Meetings of Grand Committees should not be of frequent occurrence, nor is there reason why all the official members of the Council should not be available to serve on every Grand Committee. More than one committee would not be sitting at the same time. Official members are rarely absent from Council meetings. It should not be necessary to swell their number merely with a view to provide different sets of men for different Grand Committees nor out of a feeling of want of confidence in the non-official members to support the Government measure. Almost invariably a number of nominated as well as elected non-official members is found in every Council who do not go with the majority of the elected members. This will be so much more frequently in the Councils of the future. Rid of the official *bloc* and with parties among themselves, there will be much more of division of opinion among elected members and there will be no combination among them and the nominated members solidly to vote against official measures. My Colleagues have made a pointed reference to our most recent experience in the Indian Legislative Council which shows to their eye that no non-official members can be relied upon invariably to support a Government measure. A Government measure which evokes such a unanimous and concentrated opposition must be an exceptionally controversial measure, and the odds are at least even that the combined opinion of all non-officials is as sound as that of the Government which seeks to force down such a measure on an unwilling people. In this connection, I may recall the words addressed by Lord Morley to the Government of India. In his Despatch of November 1908 in which he conveyed his decision to do away with official majorities in the Provincial Councils, he pointed out that when all the non-officials are unanimously opposed to a measure, it is very likely desirable that that measure should not be proceeded with, for the time being at any rate. The wisdom of this advice will still more be apparent in future with the growing power of public opinion and the increasing necessity of Government's relying upon the support of opinion. If there is any force in this line of reasoning—and I venture to think that on any other footing there is no *raison d'être* for reforms at all—then we can easily accept the Report Scheme of the composition of Grand Committees as well as the Southborough Committee's recommendation. Given Provincial Councils constituted as the Southborough Committee have recommended, Grand Committees consisting of 40 to 50 per cent of the total strength of the Councils and including a bare majority of nominated members, can certainly be constituted. The non-official element among the nominated members need not be confined to the nominated non-official section of the Council. It is nowhere stated in the Montagu-Chelmsford Report that the Governor should not nominate elected members. The Governor would make the nomination *ad hoc* and it is reasonable to suppose that he would select for nomination such of the elected members as he may rely upon. If a legislation removed from the purview of the Council cannot be carried through a Grand Committee with the support of a very few elected members in addition to that of the officials it must be a bad measure; and I would unhesitatingly conclude that such a measure which has not a single friend among non-officials even if they have been elected to the Council had better not be enacted into law at all.

Holding these views, I am sorry I am unable to join my Colleagues in proposing the variations from the Report Scheme which they urge in the Despatch.



NINTH DESPATCH

ON

INDIAN CONSTITUTIONAL REFORMS

(Assam and Backward Tracts.)

No. 7 of 1919.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

REFORMS.

To

THE RIGHT HONOURABLE EDWIN MONTAGU,

His Majesty's Secretary of State for India.

Simla, June 5, 1919.

SIR,

In para. 35 of our despatch of March 5 we informed you that we were examining separately the question of the constitutional changes to be made in Assam, and in para. 84 of our despatch of April 16 we explained that we were reserving for a separate despatch our discussion of the treatment of backward areas of the nature referred to in para. 199 of the Report on Indian constitutional reforms in which the general scheme of reforms cannot suitably be applied. We have now the honour to lay before you our views on both these questions.

Assam.

2. For a full description of the physical features of the province of Assam we would refer you to para. 4 of the note dated October 24, 1918, by the present Chief Commissioner, a copy of which was enclosed with our despatch of March 5, 1919. The province has an area of 77,500 square miles, or slightly less than that of the neighbouring province of Bengal, but 50,000 square miles or almost two-thirds of this area is composed of hill tracts, peopled by simple hill tribes, which are governed in a patriarchal fashion. The more advanced portion of the province is confined to the Assam and Surma valleys. Each valley has a population of about three million but the area of the Assam valley is 20,000 and that of the Surma valley 7,000 square miles. The total population of the province is only seven million, or about half that of the Central Provinces which, in point of population, is the next smallest of the nine principal provinces. The gross revenue of the province is approximately only 171 lakhs, as compared with 404 lakhs in Bihar and Orissa, which has the next lowest revenue, and the surplus revenue available under the scheme outlined in para. 206 of the Report would be only three lakhs.

3. The whole of the Chief Commissionership of Assam as constituted in 1874 was declared to be a scheduled district under the Scheduled Districts Act, 1874. Legislation can also be effected throughout the province by means of Regulations under sec. 71 of the Government of India Act, 1915. Neither the Scheduled Districts Act nor sec. 71 of the Government of India bars the operation in the province of Indian and local Acts. The majority of the hill districts, however, are deregulationized in two ways: first by sec. 14 of the Assam General Clauses Act, 1915, which excludes therein the operation of Acts of the Assam Legislative Council unless specifically extended under the Scheduled Districts Act, 1874, or otherwise; and secondly by the Assam Frontier Tracts Regulation, 1880, under which the local administration with the sanction of the Governor General in Council may direct that any enactment in force in any tract to which the Regulation has been applied shall cease to be in force therein.

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4. The justification for treating Assam in a special manner must be sought not so much in its area, which as we have mentioned is almost equal to that of Bengal, as in the very large proportion of this area which lies in the hills and is peopled by primitive tribes, and the consequent smallness of the area, with its correspondingly small population and revenues, which can be compared in the matter of general progress and advancement with the rural tracts of other provinces. The problem is also complicated by the cleavage, geographical as well as religious, social and political, between the two valleys which comprise the more advanced portion of the province. The Assam valley is mainly Hindu and animistic. In the Surma valley Muslims are in a majority. One experienced official has indeed gone the length of advising that so different are the conditions and interests of the two valleys that their separate administration appears necessary if a real advance towards responsible government is to be made. A further complication is to be found in the powers of the existing legislative council. As the Chief Commissioner has pointed out in para. 5 of his note of October 24, 1918, though the council does not include representatives of the hill tracts, it has power to pass laws which may, as explained in para. 3 above, be applied to these tracts. Further, as the enclosed analysis of the revenue and expenditure of the hill tracts shows, these hills are to a considerable extent financed from the plains, and since this arrangement must continue it is only fair that the representatives of the plains districts should continue to have some voice in the expenditure of the funds so provided. The present council exercises its right to discuss this expenditure on the occasion of the budget debates, and any proposal to deprive it of this privilege would be hard to justify.

5. Our view is that the hill tracts clearly call for special treatment, and that the remainder of the province is too small to carry the elaborate constitutional superstructure which we have proposed in the case of other provinces. The proposal to treat the hill tracts in a special manner hardly needs justification. On this point opinion is practically unanimous. The question was one which indirectly came within the scope of the functions committee and their recommendation in para. 49 of their report is that the tracts in question should be excluded from the scope of the reformed provincial Government and administered by the Governor himself. Their views on this point have incidentally an important bearing on their proposals for the transfer of subjects in Assam, inasmuch as they have resulted in the proposal to reserve excise, public works, and fisheries, which in other provinces are recommended for transfer.

6. The Chief Commissioner (para. 5 of his note) admits that there is much to be said for treating Assam separately, either by placing it in the same category as Burma and postponing the operation of the new scheme till it has been tried elsewhere, or else by associating with the Chief Commissioner an advisory council constituted on a liberal basis, such as has been proposed in the case of some of the minor provinces. But he considers that neither of these proposals is now within the range of practical politics. Since Assam has in the Report been grouped with the major provinces (exclusive of Burma), its future constitution must, in his opinion, follow the main lines of the scheme applied in other provinces subject to such variations on points of detail as local conditions require. We are in general agreement with the Chief Commissioner as to the desirability of retaining as many of the principal features of the main scheme as possible, though, as will appear later, our recommendations differ materially from his. Before, however, we set forth our own proposals, we shall review briefly the various schemes which have been suggested as suited to the peculiar conditions of Assam and the reasons which have led us to reject them.

7. The Chief Commissioner's own scheme is a variation of the Report proposals. He would make no division of subjects but would have a Governor with an executive council composed of three elements, (a) two officials, (b) two non-officials elected by the non-official members of the legislature (hereafter called ministers), and (c) two non-officials nominated by the Governor. Only (a) and (b) would hold portfolios and receive salaries, but all members of the council would have the right to vote. Although he would

have no division of subjects he would require resolutions on all subjects in the portfolios of the ministers to be accepted except for very strong reasons; and he would make budget resolutions binding in so far as they involved only the transfer of funds between heads in charge of ministers. He proposes a legislative council with a four-fifths elected element, and for the affirmative power of legislation he would rely on the existing power of making Regulations under sec. 71 of the Government of India Act, 1915. It appears, however, to be an essential part of his proposals that the council should be divided into two portions, viz., one official, one minister, and one non-official without a portfolio for each valley. These portions would have their headquarters in their respective valleys. Each would have its own secretariat establishment. Each would in fact form the Government of its valley in all cases of minor importance. The Governor's headquarters would remain at Shillong, and only an occasional case would be sent up to him from one valley or the other.

8. This project appears to us to have great disadvantages. The first and most obvious objection is that it would give the province an extremely top-heavy administration. The Chief Commissioner himself admits that the present administration is sufficiently heavy, and to reduce the excessive top-hamper which the superimposition of a council of six would involve he proposes to convert the existing two commissioners into councillors. Even if this were done, there would still be in each valley a council of three members exclusive of the Governor, with its own secretariat, to control the destinies of a population which is less than that of some existing districts. We think that there would certainly not be work for all the members of so large an executive, and that there would be a great danger of its interfering in details of administration with which the chief executive authority should have nothing to do. Further, the estimated surplus of the province under the Report scheme is only three lakhs. The people would undoubtedly complain if this small surplus were largely swallowed up in additions to the highest posts of an administration the weight of which is already criticised.

9. There are, however, further objections to the scheme. We could not approve of the election of members of the executive for the reasons given in para. 161 of the Report, and we have already advised in para. 37 of our first despatch that the proposal to appoint additional members without portfolios should be abandoned. Details like these could perhaps have been adjusted, but the whole conception of an executive council which is divided into two portions seems to us unsound. Each committee of council would control the whole administration within its jurisdiction, and its power would only be limited by rules requiring the submission of all cases of importance to the Governor in Shillong. For all practical purposes the committee of the council for each valley would be the Government for that valley, and there would be a strong tendency for each committee to consult the Governor less and less and to act more and more on its own authority, while the meetings of the whole council, necessarily limited even in the most favourable circumstances, would be held at increasingly long intervals. The system would, it seems to us, develop a separatist tendency, and would increase rather than reduce the difficulty of bringing the two valleys under one administration.

10. Another plan which has found advocates is that of the divisional councils described in para. 243 of the Report. It is claimed that a scheme of this type, modified to meet local conditions, is eminently suited to the province, could be applied at once, and would be popular in both valleys, once the idea that Assam was receiving less generous treatment than the more advanced provinces had disappeared. The population of the sub-provinces would undoubtedly be small, but communications are bad and distances are considerable, while the fact that the provincial headquarters is situated in the hills reduces the attraction of headquarters posts to Indians. The jealousy between the two valleys might be expected to disappear in time and after a period of training on the lower plane they might join with the intervening hills in forming a single administration. While we are in full agreement with the authors of the Report in rejecting a scheme of this type for general application, we feel bound to admit that the reasons which influenced

4

them in their decision have less application to Assam than to almost any other area in India. The divisions in Assam would be natural and not artificial. They would certainly be small, but the range of matters which could be administered for each valley separately would not apparently be unduly limited, while the union of two divisions only would be required to raise the representative institutions to a provincial basis. Lastly, Assam is admittedly backward in its political and social development and its political needs are therefore less exacting than those of other provinces. On the whole, however, we feel that the objections to the adoption of a scheme of this type elsewhere apply also, if with lesser force, to the case of Assam, and that having rejected the scheme for general application we are unable to recommend it in the case of this one province.

11. Another suggestion is that the best arrangement would be to form an executive committee consisting of the Governor, as President, with the two commissioners and two Indians as members, the latter, of whom one would be taken from each valley, being chosen from the members of the legislative council and placed in charge of the transferred subjects. The main advantage claimed for the scheme is that it would be cheaper than that proposed in the Report. The members of such a committee, it is said, could be paid lower salaries than members of an executive council. The committee seems to us to be simply a council and ministers under another name. There is no difference in principle between this scheme and the Report scheme, and we prefer to secure the reduced cost, which we admit to be desirable, by other means than a change of name.

12. With a view to meeting the objection that the administration will be top-heavy it has also been proposed that the executive should consist of the Governor, in charge of reserved departments, assisted by two members without portfolios, and a single minister in charge of the transferred departments. This scheme approaches more nearly than any other to that which we ourselves recommend, but we feel the same objection to the *adlati* as we have already expressed in laying before you our views on the Report scheme.

13. The last constructive proposal which we shall mention is of a different type from any of the preceding. You are aware that a certain section of the inhabitants of Assam have expressed a desire for re-union with Bengal. Some of our advisers would go further on these lines: they suggest that all the plains districts of the province should be transferred to Bengal and the remainder of the province should continue to be administered on the present lines. So far as we are aware, however, such a desire for union with Bengal is confined to certain of the inhabitants of the Sylhet district, who presented an address to yourself and His Excellency in December 1917, and to other persons in the Goalpara district, regarding whose request we enclose two letters Nos. 356-W., dated March 12, 1919, and 709-W. dated May 20, 1919 from the Chief Commissioner. We have therefore no evidence, that there is any general desire for a transfer to Bengal, and we agree with the authors of the Report (para. 246) and with the Chief Commissioner that redistributions of provincial areas should not be imposed by official action, and should follow rather than either precede or accompany reform. For these reasons we do not propose to seek a solution of the problem in any territorial re-adjustments.

14. It is time now to put forward our own proposals. At the head of the province we would retain the Chief Commissioner with his present title and the emoluments proposed in para. 36 of our despatch of March 5. The retention of the title of Chief Commissioner would mark the difference between Assam and the other provinces in the matters of size, wealth, development and general importance; and for this reason it appears to us to be far more suitable than the more imposing designation of Governor which would also involve additional expenditure if the accepted status of that office is to be maintained. Under the Chief Commissioner there would be one member of council and one minister who would hold charge of the reserved and transferred departments respectively. We think that the pay of the minister should be fixed in the manner proposed in para. 41 of the despatch of March 5, and we recommend that the pay of member of council should be Rs. 3,500, which seems to us appropriate having regard to the position of the province

5

and the work to be done. We realise that even this comparatively slender government will increase the cost of the administration appreciably, but this we see no way to avoid. Any form of council government must be more costly than an administration with a single head. Indian opinion is strongly in favour of council government and may be expected to acquiesce in the increased cost. We do not at present see how any economies can be effected which will counterbalance this increase, but on this point we propose to consult the local administration.

15. We propose further that the division of the province into two distinct portions, one composed of plains and the other of hill districts, should be given practical recognition in the system of government. In so far as the plains are concerned the administration should be carried on in the same way as is proposed for other provinces. In particular the relations of the Chief Commissioner and his minister would be similar to those subsisting between the Governor and his ministers in other provinces. For the hill districts some modification of this system will be necessary, and we are disposed to think that the arrangements which we propose in para. 21 below for the Chota Nagpur division of Bihar and Orissa and other similar areas would be suitable. It may be, however, that parts of these hill districts should be entirely excluded from the jurisdiction of the reformed government, and we desire to consult the Chief Commissioner further on the point.

16. In regard to the legislative arrangements also we propose certain modifications of the general scheme. A council constituted on the lines proposed by Lord Southborough's committee, subject to the modification suggested by us in para. 8 of the despatch of April 23, and any others that may result from consultation with the Chief Commissioner and local opinion in Assam, would be suitable for general legislation; but inasmuch as there exists already the power to pass regulations for Assam under sec. 71 of the Government of India Act, it is doubtful if there is any need for adopting the grand committee procedure in the case of this small province. In favour of doing so the considerations of uniformity may no doubt be urged; but we see advantages both in keeping the legislative machinery in Assam as simple as possible and also in having somewhere in actual operation an alternative method of passing laws which do not commend themselves to the provincial council. We feel also that there may be special difficulties in regard to the introduction of standing committees and council under-secretaries until the political life of the province is further developed and communications greatly improved. The local administration is, however, in the best position to judge of the advantages of introducing these refinements, and we are prepared to leave the matter in its hands on the conditions laid down in paras. 92 and 93 of our despatch of March 5. Subject to these modifications we think that the legislative arrangements proposed for other provinces may be accepted for the plains portion of Assam. For the hill districts, however, some further special arrangements will be necessary. In regard to them we would certainly retain with the Chief Commissioner the power to propose regulations under sec. 71 of the Government of India Act, and we would confer on him the further power, which we propose below should be given to the Governor in respect of certain backward areas, of excluding by notification the whole or any part of these districts from the operation of any Act or part of an Act. Apart from the exercise of either of these powers the laws in force in the hill tracts would be those passed by the provincial legislative council.

17. As the draft Bill is no doubt already undergoing changes in London, it would be a waste of time for us to indicate at this stage exactly what modifications will be required to give effect to our suggestions; but it is evident that change will be needed in clauses 2 (1) and (2) and consequential changes in other parts of the Bill.

Backward Tracts.

18. We turn now to the complex question of the treatment of the backward tracts. The authors of the Report (para. 199) observed that even in the

eight provinces, to which they proposed to apply their general scheme, there would be areas where material on which to found political institutions was lacking. They thought that the demarcation of these areas would present no difficulties, as they would generally be the tracts mentioned in the schedules and appendices to the Scheduled Districts Act, 1874, and, while proposing that the definition of these areas and the arrangements to be made for them were matters for further consideration, they suggested that the typically backward tracts should be excluded from the jurisdiction of the reformed provincial Governments and administered by the Head of the province. We are not sure what construction should be placed on the phrase "exclusion from the jurisdiction of the reformed governments," and before we consider the local Governments' proposals, we desire to explain our own views on this point. We think that if any area is wholly excluded from the scope of the reforms scheme, it would inevitably follow that:—

- (i) no legislation should be enacted, no question should be asked and no resolution should be moved, affecting such area, in the legislative council. Legislation for such an area be effected, entirely by means of regulations made by the Governor General in Council under Section 71 of the Government of India Act, 1915.
- (ii) the administration of such areas, as regards both reserved and transferred subjects, should be carried on either by the Governor, as proposed in the Report, or, as we ourselves should prefer, by the Governor in Council.
- (iii) budget provision for the administration should be made separately, and should not be subjected to the scrutiny of the legislative council.

Since this is what exclusion involves, however, it seems to us to follow that the tracts excluded must be restricted to the narrowest possible limits. Such areas would in fact be those which pre-eminently deserve the description of 'typically backward tracts.' But when such territories have been excluded, there will still remain considerable tracts which in the opinion of most of us are not yet suited for the type of government which we propose for the provinces generally. The treatment of these intermediate areas presents a difficult problem. They are larger and more important than the wholly excluded areas and some of them return representatives to the existing councils. Apart from this, the actual administration of the transferred subjects within them presents practical difficulties which would not occur in the case of the smaller and wilder places. In Bihar and Orissa, for example, there are wide areas which taken as a whole are backward but yet contain towns enjoying local self-governing institutions. If such areas were wholly excluded, then any business connected with these municipalities would be transacted not by the minister but by the Governor or a Member of the Executive Council, though the same Secretary to Government would deal with all municipal administration and the same provincial inspecting agencies, such as Deputy Sanitary Commissioners, Audit officers and others, would deal with departmental questions in these just as in other municipalities: the Director of Public Instruction for instance would be under the Minister in respect of ordinary education business, but, so far as excluded areas were concerned, would be subordinate to the Governor or a Member of Council; while officers of transferred departments whose jurisdiction extended into the excluded areas would have to serve two superior authorities, and officers required solely for excluded areas would have to be borrowed from the cadres under the Minister. Further complications would arise in regard to budget procedure. If the separate purse system is adopted, then all receipts and expenditure on account of transferred subjects in these areas would have to be separated from the departmental budgets and included in the reserved budget. These examples are sufficient to illustrate the difficulties which would be encountered. We believe therefore that the total exclusion of many so-called backward areas is not feasible, and would lead to much avoidable confusion and friction in the administration. On the other hand as we are not prepared to apply the general scheme of reforms in such areas to its full extent, we have to seek some modifications which will render

the scheme suitable for application to these areas. Our view is therefore that the backward areas should be divided into two classes, namely,

- (a) those wholly excluded, and
- (b) those in which the scheme should be introduced with modifications.

In deciding how to apply these principles we have been guided partly by the existing legal position in respect of the several areas, and partly by the recommendations of local Governments. The latter together with a brief summary of their contents are included as enclosures Nos. I(i) to (viii) and II of this despatch. The legal position is set out clearly in the statement (enclosure No. V) which has been prepared in our Legislative Department.

19. We take first the case of Bihar and Orissa, in which province the tracts proposed for special treatment are the largest and most important. The local Government have come to the same conclusion as ourselves that all the backward areas cannot be treated similarly. They propose that—

- (a) the Santhal Parganas and Angul should be wholly excluded; and
- (b) the five districts of the Chota Nagpur division and the district of Sambalpur should be included in the scheme and should be treated as ordinary districts, with this exception that the Governor in Council should have power (1) to prescribe by notification the portions of these districts to which any Act or portion of an Act shall apply, (2) to decide to what portions of these districts the jurisdiction of ministers shall extend, and (3) to exclude any such portion from the scope of any order by a minister.

20. The district of Angul is the simplest case. It consists of two separate portions embedded among the Orissa States. The headquarters of the two parts are nearly ninety miles apart and are separated by State territory. Each subdivision is a network of hills, valleys, ravines and forests, with very little cultivated land. The density of the population is less than in any other district of the province, and the inhabitants are mostly aborigines or low caste Hindus, of whom a very small percentage is literate. The district is a scheduled district and de-regulationized by the Angul Laws Regulation, 1913, that is, it is an area which is excluded from the operation of the ordinary law. Legislation is effected by Regulation and the district is unrepresented in the legislative council. We entirely agree that it should be wholly excluded from the scope of the reform scheme and should be administered by the Governor in Council.

21. The Chota Nagpur division, however, contains five districts with an area of 27,000 square miles and a population of five and a half millions. The standard of civilization varies very considerably in different parts: the wilder tracts are inhabited almost exclusively by aboriginal and semi-aboriginal tribes, while on the other hand the division contains a certain number of towns, the most important coal-fields in the whole of India, and an area round the Tata iron and steel works which bids fair to become one of the most important industrial manufacturing centres in the country. The whole division is scheduled under the Scheduled Districts Act but is not de-regulationized. Legislation cannot at present be effected by Regulation as the division, though scheduled, has not been the subject of a resolution under sec. 71 (4) of the Government of India Act, 1915, or the provision which that section re-enacted. The districts of this division are represented in the provincial legislative council, and indeed the only legislative authority at present is that council, though various enactments in force are of local application only and different in character from those in operation in other parts of the province. The administration generally is conducted on much the same lines as in other parts of the province with this exception that in certain parts of the division the same officers administer both civil and criminal justice. The ordinary Civil and Criminal Procedure Codes are in force. In view of all these facts we agree with the local Government that it is not advisable wholly to exclude this area from the scope of the reforms scheme. At the same time there are some special considerations of which account must be taken. There are in the division a large

number of ignorant and excitable aborigines, who actuated by the exactions of landlords and the oppression of money-lenders have from time to time joined in armed risings against the Government. There is also, at times, a pronounced bitterness of feeling between the aborigines and the other Indian inhabitants. For these reasons we are not prepared to recommend the inclusion of the division without some special safeguards. We agree with the Lieutenant-Governor in Council that the Governor in Council should have power to decide what legislation shall have force in the division or any part thereof. We would give him a power by notification to exclude the whole or any part of the area from the operation of any Act or part of an Act passed by the local legislature, and also power to apply any such legislation, with any restrictions or modifications that he considers necessary, to the division or any part of it. Except for these powers of exclusion, restriction and modification, the Lieutenant-Governor in Council would have no positive power of legislating for such areas otherwise than through his legislative council and if need be his grand committee. On the administrative side we do not think that it is desirable to place in the hands of the Governor in Council the power to exclude any part of the division from the jurisdiction of ministers. This is not in our opinion a power which can advisably be vested in any local Government. We would give ministers jurisdiction throughout the whole area, but it should be understood that in the exercise of the control discussed in para. 219 of the reforms Report, the Governor would have a wider discretion in varying the orders of the ministers in these areas than he has elsewhere. Moreover as an ultimate safeguard we would permit him, with the previous sanction of the Governor General in Council, to re-transfer any transferred subject in these tracts if such an extreme measure became necessary. The Governor, thus empowered, will then be in a position to carry out the instructions with which we propose to charge him in respect of aboriginal tribes and which have been included in the draft instrument forwarded with our despatch of April 18. These proposals differ in some respects from those put forward by the local Government, and we think that the Governor in Council should be given an opportunity to examine them before they are finally adopted.

22. The Santhal Parganas is a large and comparatively densely populated district which is inhabited chiefly by aborigines, semi-Hinduised aborigines and low caste Hindus. Middle or higher castes form only a small percentage of the population, but there is a Bengali fringe on the east and south of the district where it adjoins Bengal, and the district contains several Bengali health resorts. The district resembles Chota Nagpur in respect of the danger of aboriginal risings against landlords and moneylenders and the bitterness of feeling between the aborigines and the Hindus, which is due to efforts by the Hindus to deprive the aborigines of their lands. Some collieries have recently been opened but their output is still small. The district is scheduled under the Scheduled Districts Act, is de-regulationized, and is an area in which legislation can be effected by Regulation under sec. 71 of the Government of India Act, 1915. A small number of persons entitled to vote for members of the existing legislature are resident in the district and Lord Southborough's committee have recommended that the municipalities of the district should be included in the new urban constituencies. The local Government propose that the district should be wholly excluded. For various reasons we feel that it would be hard to justify this extreme measure. We have already mentioned the proposed enfranchisement of the municipalities. Other reasons are that a considerable part of the district is no more backward than other parts of the province, which will not be excluded, and no part of the district is more backward than a large portion of Chota Nagpur. We propose therefore that the district should be treated in the same manner as Chota Nagpur.

23. Sambalpur was transferred from the Central Provinces to Bengal in 1905. Its position is much the same as that of the Chota Nagpur division and some of its inhabitants are at present enfranchised. We think that the arrangements proposed for the Chota Nagpur Division would also be suitable for this district.

24. We turn next to Madras where large and important areas are also proposed for exclusion. In regard to the Laccadive and Aminidive Islands

we agree with the local Government. The total area of these islands is only ten square miles and their population fourteen thousand. The islands lie at a distance from 125 to 250 miles from the Malabar coast and during the monsoon are entirely cut off from the mainland. They are scheduled districts and are excluded from the operation of the ordinary laws at present. Their interests are entirely distinct from those of the mainland and no advantage would accrue to them from inclusion within the scope of the reforms scheme. The Agency Tracts in the districts of Ganjam, Vizagapatam and Godavari, however, are in an entirely different position. These tracts have a total area of nearly 19,000 square miles and a population of 1½ million. They are largely covered with jungle, sparsely provided with communications, and inhabited by tribes which are described as "most illiterate and ignorant of the ways of the world, and yet ready to go on the war path, if any of their many peculiar susceptibilities are wounded." It was owing to their increasing turbulence that they were excluded from the operation of much of the ordinary law and placed under the direct administration of the Collectors who were armed with special powers as Agents to the Governor. The limits of these tracts come under review from time to time and if any portion of them is excluded it comes automatically under the regular administration. The tracts are scheduled districts under the Scheduled Districts Act but it may be doubted whether they are properly speaking de-regulationized areas. At present legislation is effected by rules made by the local Government under an Act of 1839 and the Scheduled Districts Act, 1874. The tracts contain some large zamindars, who at present share in the election of a member of the provincial council, and other voters, and therefore we hesitate to endorse the proposals of the local Government which would result in the disenfranchisement of these persons. We are disposed to think that the arrangements proposed for the Chota Nagpur division of Bihar and Orissa would be suitable and in regard to these we desire to invite the opinion of the local Government.

25. The Government of Bengal recommend the exclusion of the Chittagong Hill Tracts and the Darjeeling district. In regard to the former we have no hesitation in endorsing their proposal. These tracts cover a wide area. They are very sparsely populated and their inhabitants belong to a variety of more or less savage tribes. The district is a mass of hill, ravine and cliff, covered with dense bamboo, tree and creeper jungle. It is a scheduled district and is also de-regulationized. Legislation is effected by Regulation and no inhabitants of the district at present have a vote in council elections. It is clearly a typically backward area which should be wholly excluded.

26. The exclusion of the Darjeeling district is a more doubtful proposal. It is entirely composed of mountains and *tarai*, and its inhabitants are mostly of Mongolian origin, among whom Nepalese, Lepchas, Bhutias and Tibetans are numerous, while in the *tarai* there are large numbers of aborigines from Chota Nagpur and the Santhal Parganas. The percentage of the literate population is well above the average for the presidency; but this is possibly due to the considerable Christian population. The district is scheduled under the Scheduled Districts Act, but is not de-regulationized and is not an area in which legislation can be effected by Regulation. Its inhabitants include a considerable number whose names appear on the electoral rolls of the existing legislative council. The case for total exclusion is strengthened by the expressed desire of the hillmen, a copy of whose representation is enclosed with the local Government's letter. On the whole, however, we should prefer to treat the district in the manner proposed for Chota Nagpur and other areas, and desire to consult the local Government before making any final recommendation.

27. The two areas proposed for exclusion in the Punjab raise no difficulties. Lahaul and Spiti are remote tracts of country lying in the heart of the Himalayas and cut off from the rest of the province for six months in every year. They are both scheduled districts and Spiti is also de-regulationized. We agree that both areas should be wholly excluded.

28. The Governments of Bombay and the United Provinces do not propose the exclusion of any areas. We accept their view. The Chief Commissioner of the Central Provinces has not suggested any area for exclusion, but proposes

that certain tracts should be represented in the legislative council by nomination rather by election. Provision for the representation of these areas by nomination has been made in the scheme suggested by Lord Southborough's committee and we do not desire to make any alternative proposals, though we think that there would be advantages in applying to these tracts the same arrangements as we propose for Chota Nagpur and other areas.

29. These then are the lines on which we propose to treat the question generally. Their precise application can only be determined after further reference to local Governments. We should not for instance be prepared to abandon the use of sec. 71, of the Government of India Act, 1915 in all the partially excluded areas where it can be employed at present without an assurance that the local Government concerned is satisfied with the arrangements proposed in lieu of it. With this reservation, however, our proposals are:—

- (i) that Angul, the Chittagong Hill Tracts, the Laccadive and Amannadive Islands, Spiti and Lahaul should be wholly excluded from the reforms scheme.
- (ii) that Chota Nagpur, the Santhal Parganas, Sambalpur, the Agency Tracts in Madras, and the Darjeeling district should be partially excluded.

We have now to indicate how we think that effect should be given to these proposals. It will be more convenient to define the excluded or partially excluded areas by rule rather than by a new schedule to the statute, both because we need time for the determination of details, and because it may hereafter be necessary to vary whatever arrangements are made at the outset. The first step therefore would be to insert in the Bill a clause empowering the Governor General in Council with the sanction of the Secretary of State in Council to make rules excluding any area within the eight provinces (or, excluding Assam, seven) to which the provisions of Part I of the Bill apply, wholly or partially from such provisions. The Bill should provide that areas wholly excluded would remain under the administration of the Governor in Council; and that legislation for them would be effected entirely by Regulations. In respect of areas partially excluded there should be no new power of making Regulations, but the Bill should confer the following powers:—

- (i) power to the Governor in Council by notification to exclude the whole or any portion of such partially excluded area from the operation of any Act or part of any Act passed by the provincial legislative council; or to apply with such restrictions, or modifications as he thinks fit, any such Act or part of such Act to the whole or any portions of such area.
- (ii) a similar power to the Governor General in Council to exclude such area or part of an area from the operation in whole or part of an all-India Act or to apply it thereto with restrictions or modifications as he thinks fit. This power is merely the necessary complement to (i).
- (iii) power to the Governor in Council, with the previous sanction of the Governor General in Council, to retransfer the administration of any given subject in respect of such areas to the hands of the Governor in Council.

We do not think that it is necessary to make specific provision for the freer exercise of the Governor's powers of intervention in transferred subjects in respect of such areas, to which point we have referred in para. 21 of this despatch. But if you consider it necessary to provide for it explicitly the appropriate means of doing so would be to include a provision in the instrument of instructions.

30. Our colleague Sir Sankaran Nair agrees with our proposals in so far as the areas to be wholly excluded are concerned, (though he would prefer that the Bill should itself specify the wholly excluded tracts) but does not agree in regard to the other areas. He does not think that the administration of ministers

in these latter areas should be subject to any greater strictness of control by the Governor than it is elsewhere. He feels that the orders of a minister in regard to such areas could not ordinarily be interfered with without affecting other territories, and he objects most strongly to the proposal that the Governor should be given the power to re-transfer any transferred subject with the sanction of the Governor General in Council. In his view all that is needed is that the Governor should be charged with the special duty of protecting the interests of all aboriginal tribes.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

(Signed) CHELMSFORD.

C. C. MONRO.

C. SANKARAN NAIR.

W. H. VINCENT.

R. A. MANT.

H. F. HOWARD.

Minute of Dissent.

I accept the scheme proposed for Assam in the Despatch subject to the minutes of dissent which I have already submitted. I have to add that I do not agree with all the reasons given for rejecting the proposals of the Local Government. I approve of the election of members of the executive by the Legislative Councils.

SIMLA ;

June 5, 1919. }

C. SANKARAN NAIR.

V 2:2 (1919)



LIST OF ENCLOSURES.

I.—

- (i) Letter from the Government of Madras, no. 1024, dated November 9, 1918.
- (ii) Telegram from the Government of Bombay, no. 9630, dated November 6, 1918.
- (iii) Letter from the Government of Bengal, no. 6156-A., dated November 15, 1918, and enclosure.
- (iv) Letter from the Government of the United Provinces, no. 2019, dated September 23, 1918.
- (v) Telegram from the Government of the Punjab, no. 20418, dated November 17, 1918.
- (vi) Letter from the Government of Bihar and Orissa, no. 4097-P., dated November 9, 1918.
- (vii) Letter from the Chief Commissioner, Central Provinces, no. 389-A. IV, dated November 21, 1918.
- (viii) Extract paras. 4 and 5 of a note by the Hon'ble Sir Nicholas Beatson-Bell, Chief Commissioner of Assam, dated October 24, 1918.

II. Summary of local Governments' proposals—

III. Analysis of the revenue and expenditure of the hill districts in Assam.

IV.—

- (i) Letter from the Chief Commissioner of Assam, no. 356-W., dated March 12, 1919, and enclosure.
- (ii) Letter from the Chief Commissioner of Assam, no. 709-W., dated May 20, 1919, and enclosure.

V. Statement showing the powers of legislation in the territories referred to in the despatch.

APPENDIX I.

Nb. 1024, dated Fort St. George, the 9th November 1918.

From—The Hon'ble Mr. C. G. TODDINGTON, I.C.S., Acting Chief Secretary to the Government of Madras, Public Department.

To—The Secretary to the Government of India, Home Department.

I am directed to reply to the Home Department telegram no. 1324-Public, dated the 3rd ber 1918, in which the Government of India desire to be furnished with the recommendation of the Governor in Council as to the backward tracts in this Presidency which should be set to special treatment with reference to paragraph 199 of the Report on Indian Constitutional Reforms.

2. In the Ganjam, Vizigapatam and Godavari districts of this Presidency there are certain special tracts known as the Agency tracts and these are described in the schedules and appendices to the Scheduled Districts Act, 1874 (XIV of 1874), and the Laws Local Extent Act 1874 (XV of 1874). These areas owing to their hilly and jungly character, the prevalence of malaria and the absence of communications, have hitherto remained almost completely undeveloped and are generally exempt from the operation of the laws in force in the plains and the jurisdiction of the ordinary courts of justice. They are administered directly by the Governor in Council who has framed for the guidance of his agents and subordinate officers a few simple and elastic rules of procedure in virtue of the powers conferred on him by Acts XXIV of 1839 and XIV of 1874. The Agency tracts are inhabited mainly by simple and ignorant jungle tribes whose education is still elementary and who retain their ancestral customs as to tenure of land, devolution of property, family or tribal organization and social observances. These tribes, are still in very early stages of civilization, use bows and arrows, wear little clothing, are timid, excitable and easily imposed upon and totally unfit for any form or degree of political advance. The Governor in Council believes that these tracts are best administered under the existing simple system of rules and should under such conditions be more capable of development on sound lines than if brought at this stage under the influence of complex codes. They are clearly areas in which material for the foundation of political institutions is at present entirely lacking. I am accordingly to recommend that the Agency tracts of this Presidency be excluded from the jurisdiction of the reformed provincial Government and continued under the present system of administration. I may add that from time to time occasion arises for the examination of the revision of the limits of the Agency tracts and if in the future any area should be excluded from such tracts, it would automatically become liable thereby to the jurisdiction of the reformed provincial Government.

3. I am also to recommend the exclusion from the jurisdiction of the reformed provincial Government of (i) the Laccadive Islands, including Minicoy, attached to the Malabar district and (ii) the Aminidivi Islands attached to the South Kanara district. The Malabar Islands are administered under a special law—The Laccadive Islands and Minicoy Regulation, 1912. The Aminidivis, or the northern group of the Laccadives, are included in the expression "Laccadive Islands and Minicoy" occurring in the first schedule, Part I of the Scheduled Districts Act XIV of 1874. These Islands are excluded from the operation of the general Acts and Regulations and the jurisdiction of the ordinary courts of judicature. The people are primitive and the administration is of a patriarchal character, the chief representative of the Government being an officer styled 'Monigar' whose court has the sanction of custom, usage and unquestioned authority.

Telegram No. 9630, dated the 6th November 1918.

From—The Secretary to the Government of Bombay, Political Department,

To—The Secretary to the Government of India, Home Department.

Reference your 1324-Public, September 3rd. Bombay Government have no recommendations regarding backward tracts.

No. 6156-A., dated the 15th November 1918.

From—H. R. WILKINSON, Esq., I.C.S., Officiating Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department.

I am directed to refer to your telegram No. 1324-Public, dated the 3rd September 1918, inquiring what areas in this Presidency the Governor in Council would recommend for the special treatment indicated in paragraph 199 of the Report on Indian Constitutional Reforms.

2. The report contemplates the exclusion from the jurisdiction of the reformed provincial Governments and the direct administration by the Head of the Province of backward tracts, where the people are primitive and there is as yet no material on which to found political institutions, and it is suggested that these tracts will generally correspond with the areas mentioned in the Schedules and appendices to the Scheduled Districts Act, 1874.

3. There are three districts in this Presidency which appear in these schedules and appendices, the Chittagong Hill Tracts, Darjeeling and Jalpaiguri. Of these, the Hills Tracts are included in Appendix B to the Act, and its laws, therefore, are framed not by the Legislative Council, but by regulations of the Governor General in Council under section 71 of the Government of India Act, 1915. The district is in fact already excluded from the purview of the Bengal Legislative Council; it is expressly excluded from the landholders and Muhammadan electorates, and as it has no district board or municipality, it has no representative of any kind on the Council. The people are primitive, and there can be no doubt that the Hills Tracts should be accorded special treatment.

4. With regard to Darjeeling and Jalpaiguri the position is somewhat different: they are included in Appendix I to the Scheduled Districts Act, and so are governed, not by regulations, as in the case of the Hill Tracts, but by the ordinary law, subject to the provisions of the Scheduled Districts Act. They have it is true, special rent and revenue laws, and in Darjeeling executive officers perform the duties of civil courts, but, so far as the general law is concerned, they do not differ very much from the rest of the Presidency. Moreover, they are already represented in the existing Legislative Council; they elect a member to represent the tea planting community in the two districts, and they are included in the landholders, Muhammadan and municipal electorates of the Rajshahi Division, while Jalpaiguri, in conjunction with the other districts, returns a member for the District Boards in the Division.

5. These districts therefore do not answer the description of backward tracts as given in paragraph 199 of the Report. At the same time there are special circumstances justifying the exclusion of Darjeeling from the reform scheme. Being almost entirely a hill district, its population have no affinity whatever with Bengal, and even if they were represented in the new Legislative Council, they would be absolutely swamped. Moreover, Darjeeling is a frontier district, abutting on Sikkim and Bhutan, and the main road from Bengal to Tibet passes through the district, so that its strategic position alone would justify special treatment. The local officers, the leading associations and the hillmen themselves are unanimous in recommending the exclusion of the district from the scheme. It was explained to the tea planting community that this would involve the loss of their seat in the Legislative Council, but they consider that this would be more than compensated for by the advantages of separate treatment; and it will be recollected that the deputation, representative of all the hill races resident in the district, which waited upon the Viceroy and the Secretary of State in the course of their enquiry, urged that they should not be considered as part of Bengal in any scheme of self-government that might be adopted. A copy of their memorial is forwarded herewith for ready reference. The Governor in Council, therefore, has no hesitation in recommending that Darjeeling also should be excluded from the jurisdiction of the reformed government.

6. The position of Jalpaiguri is different again. The district consists of two well-defined parts, the area west of the Teesta, permanently settled and originally part of the neighbouring district of Rangpur, and the eastern portion which belonged to Bhutan until 1865, when it was annexed by the British Government. About two-thirds of this latter area is under reserved forest or tea cultivation, and the system of land tenure is different from that prevailing anywhere else in the province. Opinions as to the treatment of these areas differ: the Planters' Association would exclude, and the Jalpaiguri Municipality and Anjuman Islamia include, the whole district in the scheme, whereas the Deputy Commissioner and the District Board urge special treatment for the part east of the river Teesta and for two thanas on the west of it, where the population is scanty and backward and a large area is under forest.

7. There would appear to be no particular justification for according special treatment to the permanently settled area west of the Teesta, especially as there is practically no difference between the conditions prevailing there and those in the neighbouring districts, about whose inclusion there can be no question. It remains, therefore, to consider only the tract east of the Teesta. The arguments put forward in favour of according special treatment to this area are that nearly the whole of it is covered by reserved forest and tea gardens or is a *khas* managed Government estate; the majority of the population consists of hill and aboriginal tea coolies, and illiterate Rajbansis and Meches, and the north-east boundary of the district marches with Bhutan. The tract covers an area of 1,957 square miles, and has a population of just over a million but only 41,000 are hill men, so that it has no great affinity with

Darjeeling. It is true that over 167,000 are aboriginals but these are mostly immigrant who have come to work on tea gardens, and, as it will be very many years before persons of this class have any voice in the working of the reformed Government, wherever they may be, His Excellency in Council does not consider that their existence alone warrants the exclusion of the district. Of the remaining three-fifths of the population the great majority are Rajbhansis and Muhammadans. The Rajbhansis are not indeed pure Bengalis, and a great many of the Muhammadans are converted Rajbhansis, but as the same conditions prevail in the adjacent districts, this cannot be accepted as a conclusive argument.

That the district borders on Bhutan is of importance if the Government of India contemplate reserving a tract along the northern or north-eastern frontier, and on this point the local Government have no information, but otherwise it is unnecessary to attach much weight to this consideration, as, if there were serious trouble at any time with Bhutan, this area would have to be occupied by a military force, whatever the form of civil government might happen to be.

8. His Excellency in Council is inclined to think that the balance of argument is in favour of including the whole of the Jalpaiguri district within the scope of the Reforms Scheme. The eastern area is too small to form a separate district by itself, and its position precludes it from being conveniently joined on to Darjeeling, which is the only alternative if it is to be accorded special treatment. The peculiar conditions of its population and land tenures do not constitute an insuperable obstacle to its coming under the reformed provincial Government; and it is a flourishing and rapidly developing tract, associated with many matters of general importance to the province, unlike Darjeeling which, from its position in the hills and the nature of its population, must always remain set apart from the main Presidency of Bengal.

9. There are indeed other backward areas, for which exclusion might be urged, such as the aboriginals in the Burdwan division, for whom special provision has already been made in the Bengal Tenancy Act, 1918; but the difficulty is that they do not occupy a compact area and it would thus be impossible to provide satisfactorily for them.

10. The Governor in Council would therefore recommend as suitable for special treatment the districts of Darjeeling and the Chittagong Hill Tracts only, but it has been impossible in the time allowed to examine the matter fully as might have been wished and the proposals must be regarded as provisional pending further examination of the nature of the treatment which will be accorded to the excluded tracts.

ADDRESS BY THE HILLMEN OF DARJEELING.

The humble memorial of representatives
of the Darjeeling district.

Dated 8th November 1917.

RESPECTFULLY SHEWETH,

That we, the undersigned Lepchas, Bhutias and Nepalese, representing the opinion of the people of the Darjeeling district, gratefully respond to the invitation issued by the Government to the people of India to make representations to be laid before the Secretary of State for India during his coming visit.

What prompts us to approach Government is not any feeling of discontent or dissatisfaction with the present system of Government. On the contrary we are perfectly contented. We have hitherto abstained from all political agitation and we have treated the movement for Home Rule with neglect and even disavowal. But now that the British Government has definitely stated that Home Rule is the ultimate goal towards which it desires that India should gradually proceed, we feel it our duty to safeguard our future position by presenting Government with a statement of our views on one point which seems to us of vital importance.

At present the Darjeeling district is one of the many districts of the Bengal Presidency, with the centre of Government in Calcutta. This intimate connection with the plains of Bengal, however, is but of comparatively recent origin, and it only exists because of the common relationship of lands under the same British rule. There is, moreover, no real affinity between the peoples of this Himalayan and Sub Himalayan region and those of the plains of Bengal and our plea is that it may now be established as a settled principle in any arrangement for the realisation of Home Rule for the people of the plains of Bengal that this district should be excluded from them and that the evolution of our political life should be towards a distinct local government of our own on such lines as may be approved by the British Government.

We live in an absolutely different world from the rest of the people of Bengal. Geographically no greater contrast is possible than that between the mountainous Darjeeling district and the plains of Bengal. Racially there is an equal dissimilarity, for the great mass of our population is Mongolian and akin to the peoples beyond the Himalayas rather than to those of India. Historically we have until recent years lived a life entirely apart. The Darjeeling district except the Kalimpong subdivision, was gifted by or annexed from the kingdom of Sikkim last century; the Kalimpong subdivision and the Duars were Bhutanese till above fifty years ago, and the Nepalese have immigrated from Nepal in recent years. Religiously we are, as regards the Lepchas and the races of Tibetan origin as well as a number of the Nepali castes, quite distinct from the people of the plains, and even the religious customs of the Nepalese, who are classed as Hindus, vary largely from those of the Hindus of Bengal. Linguistically we have no alliance with the rest of Bengal. Even the *lingua franca* of our courts and schools is Hindi and not Bengali while the great mass of the workers on the tea gardens of the Duars and the Terai are immigrants from Bihar and Orissa and Nepal which fact—in addition to the geographical and historical arguments—makes it natural and fitting that the Tea District of the Duars should be linked up with the Darjeeling district rather than with Bengal.

A further argument in favour of a separate Eastern Himalayan unit of Government is based on health considerations. The plains are entirely unsuited to hill peoples, who are most unwilling to go to the plains to live. This makes it essential for the future welfare of the district that it should be as far as possible self-contained. In the matter of education, to give one important illustration, we look forward to having our own colleges and other institutions for professional training. At present these are in the plains, and this has acted as a great barrier to the higher education of our people. But although higher education is backward, primary education is more general than in any other district of Bengal, and we have therefore to hand the true basis for a natural and satisfactory educational advance.

Our humble petition, therefore, is that in laying down plans for the future, the Government should aim at the creation of a separate unit comprising the present Darjeeling district with the portion of the Jalpaiguri district which was annexed from Bhutan in 1865.

The creation of this separate unit may be objected to on the ground that it would be very small as compared with other probable units of Government in India. The population of the Darjeeling district is now only 300,000. That of the Jalpaiguri district is larger. But 50 years ago the population was not a tithe of what it is now and the phenomenal increase is likely to be maintained as the districts are capable of large development. The possibilities through the use of hydro-electric power alone are immense.

Moreover the district has an importance disproportionate to its area in that it is a vital frontier District. Our people are the natural guardians of the frontier and we would welcome the privilege of keeping ourselves ever ready to fulfil this function. A small but significant incident, illustrative (in this connection) of the drawback from our relations with the organisation suited to the plains, is found in the recent call for recruits for Indian Defence. Very few felt able to respond because the larger periods of training were to be undertaken in the plains. Had it been possible to arrange for the training at centres in the hills, we are convinced that volunteers in large numbers would have been forthcoming and we are confident that, if the Government wished it, practically all the able-bodied men of our hill communities could be enlisted in a force to defend the frontier.

It is possible, indeed, that the Government might consider it wise to create a still wider North-Eastern Frontier Province to include in addition to this district the Assam Duars and the hill territories which lie to the east of Bhutan and whose peoples have affinities with our people.

No. 2019, dated Naini Tal, the 23rd September 1919.

From—The Hon'ble Mr. S. P. O'DONNELL, I.C.S., Chief Secretary to the Government of the United Provinces,

To—The Secretary to the Government of India, Home Department.

I am directed to refer to your telegram no. 1324-Public of the 3rd September, in which it was stated that the recommendations of the Lieutenant-Governors as to the backward tracts, if any, which should be subject to special treatment, should be communicated to the Government of India as early as possible.

2. The only areas in these provinces which have even a *prima facie* claim to the special treatment adumbrated in paragraph 199 of the Report on Indian Constitutional Reforms, are those to which the Scheduled Districts Acts of 1874 applies. There are (1) the districts of Almora and Garhwal; (2) the Tarai Pargannas; (3) Jaunsar Bawar and (4) parts of the Mirzapur district. The latter three tracts are small areas, of little importance, and it would be inconvenient, and would serve no useful purpose to exclude them from the jurisdiction of the reformed Provincial Government. The districts of Almora and Garhwal on the other hand, although hitherto little affected by recent political developments, are not in other respects backward tracts. Elementary education is more widespread in these districts than in the province as a whole, and the level of intelligence is fully as high as in the plains. Public opinion in these districts, in so far as articulate, is against their exclusion, the non-official members of Council were unanimous against it in the debate held by them on the Reforms Scheme; and the Lieutenant Governor considers that no adequate grounds for this can be adduced. I am accordingly to say that there are no tracts in these provinces which the Lieutenant Governor recommends should be subject to special treatment in connection with the constitutional reforms now under consideration.

Telegram no. 20413, dated the 17th November 1918.

From—The Additional Secretary to the Government of the Punjab,

To—The Secretary to the Government of India, Home Department.

Your 1324-Public of 3rd September 1918. Only tracts which Lieutenant-Governor recommends should be excluded from scope of reforms scheme are Lahual and Spiti in Kangra district. Recommendation based on their remote and primitive character. Owing to snow blocking passes they are inaccessible for six months in the year.

No. 4097-P., dated Ranchi, the 9th November 1918.

From—The Hon'ble Mr. H. McPHERSON, I.C.S., Chief Secretary to the Government of Bihar and Orissa,

To—The Secretary to the Government of India, Home Department.

I am directed to refer to your telegram no. 1324, dated the 3rd September 1918, regarding the exclusion of backward tracts from the jurisdiction of the reformed Provincial Governments, and to express regret that it was not found possible to submit the recommendations of the local Government before the 1st November. The Lieutenant-Governor in Council was unable to form his conclusions on this important subject, till he had formulated his recommendations on the entire scheme of reforms and considered their bearing on the administration of the backward areas in the province.

2. The areas which would naturally fall to be excluded from the jurisdiction of the reformed local Governments and to be administered by the Head of the Province, if the spirit of the suggestion in paragraph 199 of the Report be followed, are the deregulationized districts of the Santal Parganas and Angul and the Scheduled districts which include besides the regulationized tracts the whole of the Chota Nagpur Division and a substantial portion of the Sambalpur district which was taken over from the Central Provinces in 1905.

3. The legal position in these areas is explained below :—

(1) The Santal Parganas is a deregulationized tract, that is to say, it was removed by Act XXXVII of 1855 from the operation of the general laws and regulations, and was placed under the superintendence and jurisdiction of officers to be specially appointed by the Lieutenant Governor. By resolution of the Secretary of State in Council the provision of section 71 of the Government of India Act 1915 apply to the district. Under the Santal Parganas Settlement Regulation (III of 1872), the enactments deemed to be in force in the district are set out in a schedule, and it is provided that except in so far as concerns the trial and determination of civil suits in value over Rs. 1,000 when these are tried under the Bengal, Agra and Assam Civil Courts Act, 1887, no other enactment shall, unless the Santal Parganas be expressly mentioned therein, be deemed to apply to the said Parganas, but the local Government may by notification in the Gazette declare any other enactment to be in force, withdraw such declaration, or with the previous sanction of the Governor-General in Council declare that any enactment specified in the schedule shall cease to be in force in the district. Other regulations make provision in respect of rent (II of 1856) the administration of justice (V of 1893), and rural police (IV of 1910) and even the civil suits of the exceptional class above referred to are tried by executive officers vested with judicial powers.

The Santal Parganas district is also named in the First Schedule to Act XIV of 1874 (the Scheduled District Act) among the Scheduled Districts of Bengal, but the Act has never actually been brought into force in the district.

(2) Angul is both a Scheduled district and a deregulationized tract. Notifications under Act XIV of 1874 were issued for the Angul subdivision, but they have been superseded by Regulation I of 1894 which in its turn has been replaced by Regulation III of 1913 (the Angul Laws Regulation). Under this regulation the laws applicable in the district consist of the following and no others :—

- (a) the enactments enumerated in the schedule to the regulation, and
- (b) enactments thereafter passed which one expressed by special mention of the district or part thereof to extend thereto, and
- (c) enactments declared in force or extended thereto by notification of the local Government in the provincial gazette.

(3) Chota Nagpur is a Scheduled District in respect of the whole of which notification under section 3 have been issued. It comprises the districts of Ranchi, Palamau, Hazaribagh, Manbhum and Singhbhum.

(4) Sambalpur.—The Bara Sambar, Kolabira and Rampur Zamindaris, which cover about one-third of the district, are Scheduled Districts in which the Act was brought into force in 1878.

Legislation for the Santal Parganas and Angul is ordinarily by Regulation under section 71 of the Government of India Act 1915. Only one Act of the Bihar and Orissa legislature expressly applies to them, and of the Acts of the Imperial legislature from 1913 to 1918 inclusive only thirteen are expressed to extend to the Santal Parganas and three to Angul.

The bulk of the ordinary laws are in operation in the scheduled districts of the Chota Nagpur Division.

4. The area and population of the districts concerned are shown in the table below :—

District.	Area in square miles.	Population.
1	2	3
Santal Parganas	5,463	1,832,973
Angul (including Khondmals)	1,681	1,99,51
Chota Nagpur—		
Ranchi	7,104	1,387,516
Palamau	4,914	887,237
Hazaribagh	7,021	1,228,809
Manbhum	4,147	1,547,576
Singhbhum	3,891	694,394
Total of Division	27,077	5,605,362
Sambalpur—		
Three Scheduled Zamindaris	1,268	166,572*
Rest of district	2,556	577,621
Whole district	3,824	7,44,193

* NOTE.—Calculated by proportion from the 1901 figures.

5. The problem cannot be correctly appreciated unless some brief account be given of the characteristics of the country and people comprised in each district.

The Santal Parganas is the chief stronghold of the Santal race who form 35 per cent. of the total population. In 1855 their rebellion against the oppression of alien landlords and money-lenders led to the enactment of Act XXXVII of that year which removed the district from the operation of the general laws and regulations "as not adapted to the uncivilized races of people called Santals". The district has its own agrarian system which is governed by Regulations III of 1872 and II of 1886, and a distinct judicial system which is governed by Regulation V of 1893. The Santals are a primitive people with a strong tribal organization, of which the village headman system is a leading feature. The remainder of the population includes, besides aboriginal races like the Male and Mal Paharia, a large proportion of semi-Hinduized aborigines and low class Hindus, and the middle and higher Hindu castes of Bengal colonies in the west of the district where they have settled along the line of railway which crosses the healthy uplands of the Deoghar Subdivision. These maintain constant pressure for the removal of that subdivision from the Santal Parganas system of administration, which handicaps them in their dealings with the aboriginal population. The district consists largely of hilly country and uplands with fertile valleys interspersed. It is only half cultivated and of the uncultivated portion one-half consists of hill and forest land which is permanently unfit for cultivation.

Angul is a forlorn State situated in the midst of the tributary Mahals of Orissa. Attached to it is the Khond Subdivision of the Khondmals which lies still deeper in the hills and jungles of this tract. Both tracts are inhabited by wild and primitive people, and the higher Hindu castes represent only about 5 per cent of the total population. The administration of the district has always proceeded on lines entirely distinct from that of regulation districts.

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new scheme until the experiment had been tested elsewhere. Much could also have been said for treating Assam somewhat on the lines of the North-West Frontier Province. For example, our Legislative Council (although enlarged and reformed) might have retained for the present its existing constitutional functions, while the only change in the executive administration might have been the association with the Chief Commissioner of an advisory council, constituted on a liberal basis. I have carefully considered both these proposals and have come to the conclusion that, whatever be their intrinsic merits, they are no longer within the sphere of practical politics. As Assam has been included in the Report along with the seven major provinces of India, Assam must stand or fall along with them. The future constitution of Assam must follow the general lines of the constitutions of the other seven provinces, although I hope I have already written enough to show that the constitution of Assam cannot be identical with those of its richer, more populous and more homogeneous neighbours. In particular, the existence of 50,000 square miles of patriarchal tracts constitutes a distinct problem which must be faced. How are we to treat the area coloured red? To frame electorates for this area and to include it in the general scheme is out of the question. It is true that the standard of education in the Khasi and Jaintia Hills is comparatively high, but the people have as yet shown no desire for political union either with the Assam Valley or with the Surma Valley, and moreover a very large proportion of them are subjects of Indian chiefs (Siems). The inhabitants of the other Hill tracts are obviously unsuited for full inclusion in the scheme. On the other hand, there are cogent arguments against complete exclusion of the "red" tract. In the first place the present Legislative Council has power to legislate for the "red" tract and has, to a limited extent, exercised that power. There is no real danger in the existence of this legislative power. It is laid down in section 14 of the Assam General Clauses Act, 1915, that "unless and until extended under the Scheduled Districts Act, or otherwise, no Act of the Assam Council, in the absence of special provisions to the contrary, shall come into force" in the Hill tracts. An additional safeguard exists in Regulation 2 of 1880 which empowers the Chief Commissioner, with the previous sanction of the Governor-General in Council, to direct that any enactment in force in the Hill tracts "shall cease to be in force therein." So far as a legislation is concerned there is therefore no real danger if the new Legislative Council, like the present Legislative Council, has nominal power to make laws for the Hill tracts. On the other hand, it makes for simplicity that the Legislative Council should have such power. There is, however, a more practical point. It

† Appendix I to this note.

will be seen from the accompanying tablet that the hills are, to a considerable extent, financed from the plains. If the hills are to be altogether excluded from the new scheme it will be necessary to arrange that the plains are to pay an annual tribute towards the administration of the hills, just as they are to pay an annual tribute to the Government of India. There are obvious practical objections to such a system. Moreover, if the plains are to supply funds for the administration of the hills it is equitable that the representatives of the plains should not be deprived of all voice in the spending of their money. At present the representatives of the plains can and do ask questions regarding the administration of the hills. They can and do discuss expenditure in the hills on the occasion of the budget debate. To deprive them of these privileges would be a step which it would be hard to justify. Seeing, then, that it is not proposed to make over to the portfolio of a "minister" any matter connected with the hills, and that, whatever may be said in debate or embodied in resolution, the Governor in the future administration will be able to ensure that the hills are sympathetically administered and adequately financed, I have come to the conclusion that the whole of the province as at present constituted can safely be placed under the new administration of a "Governor in Council."

APPENDIX I.

Statement of income and expenditure of the Hill Districts in Assam for the year 1917-18.

Name of district.	Receipts.	Total expenditure.	Deduct.		Net expenditure.
			Secretariat and Heads of Departments.	Assam Rifles.	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	Rs.
Garo Hills	2,25,094	2,46,723	...	...	2,46,723
Khasi and Jaintia Hills	8,53,858	24,50,651	14,27,108	...	10,23,543
Lushai Hills	1,05,404	6,38,386	...	3,83,493	2,54,978
Naga "	1,19,659	6,97,572	...	2,86,724	3,10,848
North-East Frontier	58,369	7,85,957	...	3,01,927	4,84,030

APPENDIX II.

Summary of the replies received from local Governments in respect of paragraph 199 of Report.

Province.	Backward areas for which special treatment is suggested.
1. Madras	I.— <i>Agency Tracts in the Ganjam, Vizagapatam and Godavari districts—</i> These are occupied by ignorant jungle tribes, who are best governed under the existing simple system of rules and will gradually come under the jurisdiction of the reformed provincial government at the revision of the limits of the Agency Tracts, which takes place periodically. II.— <i>The Laccadive Islands, including Minicoy and the Aminidivi Islands attached to South Kanara district—</i> These are also occupied by primitive people, the administration being of a patriarchal character under an officer styled "Monegar."
2. Bombay	Nil.
3. Bengal	I.— <i>Chittagong Hill Tracts—</i> The people of this hilly tract are primitive and are accorded special treatment under section 71 of the Government of India Act, 1915. II.— <i>Darjeeling—</i> There are three reasons which justify the exclusion of Darjeeling from the Reforms scheme :— 1. It is entirely a hilly district and its population have no affinity whatever with Bengal. 2. The local officers, leading associations and the hillmen themselves demand special treatment. 3. It occupies a strategic position on the frontier.
4. United Provinces	Nil.
5. The Punjab	<i>Lahaul and Spiti in the Kangra district—</i> These two tracts are occupied by primitive people and are snow-bound for six months in the year.
6. Bihar and Orissa	I.— <i>Santal Parganas and Angul—</i> The people of these two districts are mostly uncivilised and primitive and are governed under special laws or on lines quite distinct from that of regulation districts. II.— <i>Scheduled districts of Chota Nagpur and Sambalpur—</i> (File paragraphs 6 and 7 of the Bihar and Orissa letter.)

Province.

Backward areas for which special treatment is suggested.

7. Central Provinces

Firstly.—All the scheduled districts of these provinces listed in Part VI of the first schedule to the Scheduled Districts Act of 1874;

Secondly.—The 12 zamindaries of Kanteli, Chandarpur, Padampur, Malkharoda, Bhatgaon, Bilaigarh-Katgi, Parpori, Khujji, Deori, Suarmar, Narra and Kauria (all in the Chhattisgarh Division);

Thirdly.—The Mandla district (except the Mandla Town);

Fourthly.—The Sironcha tahsil of the Chanda district; and

Fifthly.—The Melghat taluq of the Amraoti district.
(*Vide* paragraphs 2 and 3 of the Central Provinces letter.)

8. Assam . . . Nil, but *vide* paragraph 5 of Chief Commissioner's minute.

APPENDIX III.

ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL DISTRICTS IN ASSAM.

Ahasi and Jaintia Hills.

Receipts.		Expenditure.	
	Rs.		Rs.
I. Land Revenue	64,085	1. Refunds and drawback	492
II. Opium	14,810	2. Assignments	1,500
IV. Stamps	9,743	3. Land Revenue—	
V. Excise	78,743	Drawing office	74,000
VIIIA. Income-tax Recoveries by Government from salaries	31,057	Other establishments	70,067
Ordinary collections, etc.	10,960		1,44,067
	42,617	6. Stamps	362
IX. Forest	48,929	7. Excise	1,807
X. Registration	603	11. Forest (excluding Conservators' Office)	23,913
XI. Tributes (Ramrai)	100	12. Registration	346
XII. Interest	92	18. General Administration	6,18,373
XVIA. Law and Justice—		19A. Law and Justice—	
Courts of Law	4,323	Courts of Law—Legal	
XVIB. Law and Justice—		Remembrancer's Office	25,000
Jails	6,782	Other establishments	13,388
XVII. Police Miscellaneous receipts	1,719		38,388
Cost of "Audry"	67,330	19B. Law and Justice—Jails	15,631
	69,049	20. Police—	
		Inspector General of Police's	
		Office	75,839
		Criminal Investigation Department	74,000
		Railway Police	12,000
		Passage warrants	8,700
		Civil Police	72,459
			2,42,998
		21. Ports and Pilotage	3,609
		22. Education—	
		Director of Public Instruction's office	49,411
		Inspectress's office	37,000
		Public Library	1,399
		Other establishments	1,29,507
			2,15,317
XIX. Education	24,787	23. Ecclesiastical	12,722
XXA. Medical	1,613	24B. Sanitation—Sanitary	
XXB. Sanitation	3,180	Commissioner's office	26,850
XXA. Agriculture	5,438	Pasteur Institute	30,835
XXB. Scientific and Miscellaneous Departments—		Bacteriological Laboratory	4,718
Fees for registering Joint Stock Companies	2,632	Animal vaccination	7,865
Births, deaths registration fees	170	Kala-azar operations	12,020
	2,852	Other establishments	4,969
			86,257
Carried over	3,77,746	Carried over	14,05,773

ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL DISTRICTS IN ASSAM—contd.

Khasi and Jaintia Hills—contd.

Receipts.		Expenditure.	
Rs.	Rs.	Rs.	Rs.
Brought forward	3,77,746	Brought forward	14,05,773
XX. Receipts in aid of superannuation	8,370	24A. Medical—Inspector General of Civil Hospitals' office	62,603
XXIII. Stationery and Printing	2,936	Other establishments	53,879
XXV. Miscellaneous percentage charges of capital cost of furniture	1,950		1,16,487
Miscellaneous receipts	502	25. Political	2,712
	2,452	26A. Agriculture—Deputy Director's establishments	15,000
XXXI. Civil Works—Rent of buildings occupied by local officers	2,767	Other establishments	38,556
XXXI. Ditto by other than local officers	24,013		53,556
Sale of stores, etc.	2,904	21B. Scientific and Miscellaneous Departments—Contribution to Lady Dufferin Fund.	5,200
	29,684	26B. Ditto— I. T. A.	12,000
Total Receipts	4,21,188	Miscellaneous	6,119
			13,319
		27. Territorial and political pensions	100
		29. Superannuation	56,488
		30. Stationery and Printing Press	99,883
		Miscellaneous	112
			99,995
		32. Miscellaneous Subscriptions for News Agency telegrams	5,400
		Subsidy to Motor Company	74,000
		Secretariat hill establishment	3,144
		Miscellaneous	33,220
			1,15,764
		45. Civil Works—In charge of civil officers	12,173
		45. Civil Works—In charge of Public Works Officers, Public Works Secretariat	1,36,576
		Repairs to Government House	29,619
		Repairs to buildings—	
		Secretariat and Heads of Departments	10,740
		Total carried over	15,92,387
Net Receipts	2,93,277		

ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL DISTRICTS IN ASSAM—contd.

Khasi and Jaintia Hills—concl'd.

Expenditure.	
Rs.	Rs.
Brought forward	18,92,367
Repairs to residences—	
Conservator's	596
Chief Secretary's	998
Beachamp property	1,657
Chief Engineer's house	39,000
Taraghar	676
Nest	535
Falls view	487
Construction of stop gates on the Gauhati-Shillong road	680
Alterations to water-works	8,734
Gauhati-Shillong road repairs, etc.	1,45,600
Cherra-Shillong road	42,220
Other Public Works charges,	1,48,866
	5,58,284
Total Expenditure	24,50,651
Deduct as Provincial—	
18. General Administration	6,18,373
Director of Public Instruction	49,411
Inspectress	37,000
Public library	1,399
Inspector General of Police	75,839
Criminal Investigation Department	74,909
Railway Police	12,000
Passage warrants	8,700
Legal Remembrancer's Office	25,000
Drawing office	74,000
Sanitary Commissioner	26,850
Pasteur Institute	30,835
Bacteriological Laboratory	4,718
Kala-azar Operations	12,020
Animal vaccination	7,865
Inspector General of Civil Hospitals' Office	62,603
Deputy Director	15,000
Press	99,883
Contributions—	
Under Scientific	17,200
Subsidy to Motor office	74,900
Subscription for News Agency telegrams	5,400
Secretariat Hill establishment	3,144
Provincial Public Works expenditure.	4,09,418
	17,44,363
Ports and pilotage not deducted in figures previously supplied	3,600
	17,48,263
Net Expenditure	7,02,388

**ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL
DISTRICTS IN ASSAM—contd.**

Garo Hills.

Receipts.		Expenditure.	
Rs.	Rs.	Rs.	Rs.
I.—Land Revenue—		2. Assignments and compensation (Ghulla Zemindar in Goalpara)	
Permanently-settled estates	6		2,102
Collection from Government estates	27,652	3. Land Revenue	58,677
Rents, etc., of fisheries	1,296	6. Stamps	67
House-tax	56,423	11. Forest	50
Miscellaneous	34	12. Registration	...
	85,511	18. General Administration—Pay of Local Auditors	190
IV.—Stamps	4,248	19A.—Law and Justice—Courts of Law	833
V.—Excise	2,930	19B.—Law and Justice—Jails	2,490
VIII A.—Income-tax	3,487	20. Police—Civil Police	16,512
IX.—Forest	1,17,698	22. Education	24,221
X.—Registration	54	24A.—Medical	16,852
XII.—Interest	242	24B.—Sanitation	1,522
XVIA.—Law and Justice—Courts of Law (Magisterial Fines 2,506)	2,888	25. Political presents to hill tribes	1,190
XVIB.—Law and Justice—Jails	179	26A.—Agriculture	436
XVII.—Police—Cattle pound receipts	1,756	26B. Scientific and Miscellaneous Departments—Rewards for destruction of fish enemies	519
XIX.—Education	77	29. Superannuation	4,167
XX.—Medical	33,59	30. Stationery and Printing	35
XXB.—Sanitation	..	32. Miscellaneous—	
XXII.—Receipts in aid of superannuation	1,180	Rewards for destruction of wild animals	1,593
XXIII.—Stationery and Printing	13	Market establishment	1,140
XXV.—Miscellaneous	12		2,733
XXXI.—Civil Works—In charge of Civil Officers	1,826	45. Civil Works—In charge of Public Works Officers	42,196
Public Works receipts	1,628		
Total	2,25,265	Total	246,723
Figure previously reported— Difference of Rs. 171 in figure previously reported due to a mistake in total under XXB—Sanitation, in the Comptroller's office			171

**ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL
DISTRICTS IN ASSAM—contd.**

Lushai Hills.

Receipts.		Expenditure.	
Rs.	Rs.	Rs.	Rs.
I. Land Revenue—		1. Refunds and drawback	
Temporarily-settled estates in the Surma Valley	535		1
Rents, etc., of fisheries	60	3. Land Revenue—Charges of District Administration	57,889
Poll, capitation, house and hoe tax	25,970	6. Stamps	1
	26,565	11. Forest	2,763
IV. Stamps—		19A. Law and Justice—Courts of law	1
Sale of general stamps	37	19B. Law and Justice—Jails	2,683
„ of court-fee stamps	295	20. Police—Civil Police	23,387
„ of plain paper	2	Military Police	3,83,483
	334		4,16,875
VIIIA. Income-tax—		22. Education	10,513
Deductions by Government from salaries	3,485	24A. Medical	29,357
IX. Forest—		24B. Sanitation	1,164
Forest receipts	76,578	25. Political	1,505
XII. Interest—		26A. Agriculture	2,576
On advances under the Agriculturists' Loans Act	8,149	26. Scientific and Miscellaneous Departments	311
XVIA. Law and Justice—		29. Superannuation	7,444
Court fees realised in cash	27	30. Stationery and Printing—Country stationery for military police	137
Magisterial fines	199	32. Miscellaneous—	
Criminal court forfeitures	50	Rewards for destruction of wild animals	1,511
	276	Petty establishments	264
XVIB. Law and Justice—Jails	39	Coolie corps	15,075
XVII. Police—			16,850
Recoveries on account of rations	46,681	45. Civil Works—In charge of Civil Officers	163
„ of clothing	8,672	45. Civil Works—In charge of Public Works Officers	84,788
Sale of old stores and materials	73		
	55,426	Total	6,35,020
Total carried over	1,70,852	Total Expenditure	6,35,020
		Deduct as Provincial Military Police	3,83,625
		Net Expenditure	2,51,395
		ifference of Rs. 3,483 in net expenditure from figure previously reported due to corrections.	

ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL DISTRICTS IN ASSAM—contd.

Lushai Hills—cont'd

Receipts.	Rs.	Expenditure.
Brought forward	1,70,852	
A. Medical—Contributions	1,703	
XB. Sanitation—Sale of quinine	1,255	
XIA. Agriculture—Veterinary receipts	901	
XII. Receipts in aid of superannuation	1,483	
XIII. Stationery and Printing—Sale of service books	2	
XXV. Miscellaneous—Miscellaneous	247	
XXI. Civil Works—In charge of Civil Officers—Rent of buildings	3,092	
Public Works receipts—Rent of buildings and sale of store, etc.	622	
Adjusted through exchange accounts	336	
Total	1,80,494	
<i>Deduct as provincial recoveries on account of rations and clothing from the Military Police (not deducted in figures previously supplied)</i>	<i>42,272</i>	
Net receipts	1,38,222	

ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL DISTRICTS IN ASSAM—contd.

Naga Hills.

Receipts.	Rs.	Expenditure.	Rs.	Rs.
I. Land Revenue—		3. Land Revenue		54,818
Mineral oil	112	7. Excise		13
Temporarily-settled estates	20	19A. Law and Justice—		
House-tax	80,104	Courts of Law		112
Miscellaneous	336	19B. Law and Justice—Jails		4,057
	80,572	20. Police—		
IV. Stamps	2,053	Civil Police	23,123	
V. Excise	8,156	Kuki operations	11,152	
VIIIA. Income-tax	5,258	Military Police	2,75,572	
XII. Interest	25		3,09,847	3,09,847
XVIA. Law and Justice—		22. Education		13,476
Courts of Law	375	24A. Medical		29,619
XVIB. Law and Justice—		24B. Sanitation		1,446
Jails	300	25. Political—		
XVIII. Police—		Entertainment of Chiefs and envoys	2,096	
Recoveries on account of clothing	10,877	Unusual Charges	1,000	
Other items	1,034	Other Political Agencies	5,915	
	11,911		9,011	9,011
XIX. Education	1,455	26A. Agriculture		3,917
XXA. Medical	2,421	26B. Scientific and Miscellaneous Departments		22
XXB. Sanitation	436	20. Superannuation		8,923
XXII. Receipts in aid of superannuation	32	30. Stationery and Printing		228
XXIII. Stationery and Printing	517	32. Miscellaneous		3,770
XXV. Miscellaneous	2,945	45. Civil Works—In charge of Civil Officers		2,577
XXXI. Civil works	2,233	45. Civil Works—In charge of Public Works officers		1,56,231
Public Works Receipts			5,97,572	
	1,19,689	<i>Deduct as Provincial—</i>		
<i>Deduct recoveries on account of clothing from Military Police (not deducted figures previously supplied)</i>	<i>10,877</i>	Military Police	2,75,572	
Net Receipts	1,08,812	Kuki operations	11,152	
		Manipur-Dimapur road	1,56,231	
			4,42,955	4,42,955
		Net Expenditure		1,54,617

ANALYSIS OF THE REVENUE AND EXPENDITURE OF THE HILL DISTRICTS IN ASSAM—concl'd.

North-East Frontier.

Receipts.		Expenditure.	
	Rs.		Rs.
IX.—Forest	56,605	11. Forest	17,087
XVII.—Police recoveries on account of clothing from Military Police	6,158	25. Political	4,70,187
Public Works Receipts	1,764	Public Works	2,98,683
			7,85,957
	58,527	Military Police	3,01,927
Deduct Military Police	6,158		4,84,030
Net Receipts	58,369	Deduct—	
		Military Police lines	46,525
		Lohit Valley road	94,759
			1,41,284
		Net Expenditure	3,42,746

A. W. BOTHAM,

Second Secretary to the Chief Commissioner of Assam.

APPENDIX IV.

No. 356-W., dated Shillong, the 12th March 1919.

From—The Hon'ble Mr. J. E. WHESTER, C.I.E., I.C.S., Chief Secretary to the Chief Commissioner of Assam,

To—The Secretary to the Government of India, Home Department.

I am directed to submit, for the orders of the Government of India, a memorial from certain Zamindars of the district of Goalpara, in Assam, praying for their transfer to Bengal.

2. The statements in paragraphs 1-10 of the memorial are substantially correct. As regards paragraphs 11-15, it is correct that down to the year 1914, Bengali was the court language of the district and was taught as the vernacular in its schools. In that year, as the result of a resolution passed by the Goalpara Local Board that Assamese should be introduced in the primary schools in the Habraghat Pergana, an enquiry was made to ascertain what really was the vernacular of the district. It appeared that neither pure Assamese as spoken in Central and Upper Assam, nor Bengali as spoken in Nadia, was the vernacular of the district. It was found that in the Eastern part of the district most of the people spoke a form of Assamese similar to that spoken in the adjoining district of Kamrup, while in the western portions of the district the dialect in common use was more closely akin to the Rajbansi dialect of northern Bengal. The Chief Commissioner, after careful consideration, decided that the medium of instruction in all schools throughout the district should be either Assamese or Bengali, at the option of the majority of the persons interested in each case; he also made Assamese an alternative court language with Bengali.

3. As regards paragraph 16 of the memorial, it is true that historically and ethnologically Goalpara differs considerably from the rest of Assam, but the following incident shows that the people of the district are not all prepared to admit that in race and customs they are identical with the inhabitants of Cooch Behar and the adjoining Bengal districts. At a meeting of the Goalpara Association, held at Gauripur, in the Goalpara district, on the 15th December last, a resolution was moved "That this Association recommends that the following resolution be moved in the Assam Association Conference at Goalpara—" that the district of Goalpara being mainly identical in race, in social customs, and the system of land laws, with Rangpur, Jalpaiguri and Cooch Behar, this Association is of opinion that the district of Goalpara be placed under the same laws and administration with the districts of Rangpur and Jalpaiguri." The resolution was opposed, and was carried eventually after omitting the words "race" and "social customs". Soon afterwards a meeting of the Assam Association was held at Goalpara on the 28th December 1918. At this meeting the following resolution was moved:—"This conference records its emphatic protest against the movement for the transfer of Goalpara and Sylhet to Bengal, and the bulk of Goalpara's opinion also is decidedly against it". The resolution was opposed, and gave rise to a very heated debate, but in the end it was carried by a large majority.

4. It does not appear that since 1874, when the district of Goalpara was included in the newly formed Chief Commissionership of Assam, there has been such a change of conditions as to require a reconsideration of the decision then come to, and Sir Nicholas Beaton Bell does not think that either the zamindars or their tenants would be in any way benefited by the inclusion of Goalpara in the province of Bengal.

5. Finally I am to say that in dealing with this petition the Chief Commissioner has had regard to the opinion expressed in paragraph 246 of the Report on Indian Constitutional Reform. Judged by the criterion laid down in the Report this petition is altogether inopportune. Moreover, unless a complete change takes place in local opinion after the introduction of the new constitution it is impossible to contemplate the transfer of Goalpara to Bengal by any "process of consent." As things now are, the proposed transfer is extremely distasteful to a large section, probably to the majority, of the people of the district immediately concerned; while the people of other districts of the Assam Valley unanimously resent it with a vehemence which is almost startling. Sir Nicholas Beaton Bell has no reason to think that the opposition to the proposal will die down after the introduction of Council Government into Assam. On the contrary there is every reason for thinking that the opposition will harden.

To

His Excellency the Right Hon'ble Frederic John Napier,
Baron Chelmsford, P. C., G. M. S. I., G. M. I. E., G. C. M. G., G. C. B.
E., Viceroy and Governor-General of India.

THROUGH THE HON'BLE SIR NICHOLAS DODD BEATSON BELL, K. C. I. E., C. S. I., CHIEF
COMMISSIONER OF ASSAM.

The humble memorial of the undersigned zemindars
of Goalpara in Assam.

MOST RESPECTFULLY SHEWETH:—

That we, the zemindars in the District of Goalpara in Assam crave leave to place before
Your Excellency certain facts in connection with the past history, the present position and the

C19HD

probable effect of the proposed Reform Scheme on our vital interests, with the hope that Your Excellency may be graciously pleased to consider the points now raised, before the adoption of the Reform proposals in Assam and Bengal.

Before dealing with them however we respectfully beg to express our unswerving loyalty and devotion to the person and throne of His Majesty the King-Emperor and His Government and to assure Your Excellency how proud we feel for the most glorious part taken by the British Empire in achieving the present unprecedented victory. We in India have all the more reason to be grateful to our beloved King-Emperor firstly for the protection afforded to us during the War which indeed has affected us comparatively little; for having graciously permitted us—Indians—for the first time in our history to take part in active service with His Majesty's Imperial Forces in Europe and for the inauguration of the epoch making Reform proposals in India even during the most anxious time when the whole attention of His Majesty's Government was necessarily devoted to the War. We did what little lay in our power during the War, and our best services in every direction are ever ready for the cause of His Imperial Majesty. We feel that although hostilities have ceased, and deliberations for a lasting peace have but just commenced, and the time is hardly opportune for us to tax Your Excellency with a prayer for a consideration of our grievances, yet our only excuse for thus thrusting the matter on Your Excellency's attention at the present moment is that the consideration of details in connection with the Reform Scheme has not been delayed in view of the momentous questions before Government and should we hesitate to submit our prayers now, we fear we might be too late in the field and judgment might then go by default.

1. Your Memorialists venture to draw Your Excellency's attention to the fact that the Permanently Settled portion of the District of Goalpara, comprising an area of about 2900 square miles formed always, as far back as its history can be traced, part and parcel of the Province of Bengal.

2. That in the year 1765, with the accession to the Hon'ble the East India Company of the Dewani of Bengal, Bihar and Orissa, the said area, as part of the District of Rangpur in Bengal, came under the administration of the Hon'ble the East India Company.

3. That in the year 1793, the said area, as part of the Bengal District of Rangpur, came under the purview of the Permanent Settlement of Lord Cornwallis.

4. That in the year 1822, a new and separate District was formed of the said area and it received the name of Goalpara.

5. That in the year 1865, after the Bhutan War, an area of about 1600 square miles was added to the District of Goalpara. This addition being made after the Permanent Settlement, did not come under its purview and is liable to periodical settlement.

6. That in the year 1874, with the creation of Assam into a separate administration, the District of Goalpara was transferred from the Province of Bengal to the Province of Assam. This measure was then opposed by the ancestors and predecessor-in-title of your Memorialists.

7. That the permanently settled District of Goalpara, till its transference to Assam had always been subject to the same legislative enactments as the rest of Bengal.

8. That, for ten years after its severance from Bengal, the permanently-settled portion of the District of Goalpara enjoyed in the main the benefit of the same legislative enactments as the District of Bengal.

9. That in the year 1885, when the Bengal Tenancy Act introduced considerable improvements in the land tenure of the Province of Bengal, the District of Goalpara, by reason of its incorporation with Assam, was deprived of the benefit of that enactment.

10. That the Bengal Council Act VIII of 1869 is still left to regulate the land tenure of the permanently-settled portion of the District of Goalpara.

11. That the people of Goalpara, with a small exception, speak the Bengali language and their manners and customs are the same with those of the people of Northern Bengal.

12. That according to the Census figures of 1911, the population of the District is returned at 1,00,613 souls of which 347,772 persons speak the Bengali Language, and Assamese is the language of 55,329 persons only.

13. That the predominant written language of the District is Bengali—being used not only by the Bengali speaking population numbering 347,772 persons as aforesaid but also by the Mech people who number 92,636 souls, so that, out of a total population of 600,813 persons 440,408 persons use the Bengali language.

14. That Your Memorialists are of opinion that, since the last Census Report, there has been an increase of not less than a lakh and a quarter in the Bengali speaking population due to immigration from the adjoining Bengal Districts, with a result as Your Memorialists venture to submit that the preponderance of the Bengali speaking population of the District has been further accentuated.

15. That Bengali has always been the Court and the School language of the District, and it is only since 1914, that Assamese has been introduced as an alternative language.

16. That as regards history, tradition, social and religious custom and folk music, the people of the District of Goalpara have very little in common with the people of the other Districts in Assam.

17. That the rights created in the permanently settled area of the District of Goalpara are similar in their nature and incidents to those in the Bengal Districts, and, as such, call for similar legislative treatment and development.

18. That Your Memorialists venture to draw Your Excellency's attention to some other grievances, affecting Your Memorialists specially, arising out of the severance of the District from Bengal and its inclusion in the Assamese-speaking Khas Mahal (temporarily settled) province of Assam.

(a) Encroachment on rights conferred by the Permanent Settlement of 1793, viz, the imposition of Local rate by the Assam Local Rate Regulation, III of 1879, as an assessment on land, in contradistinction to the Road Cess in Bengal which is leviable on the collections.

(b) Loss of the distinctive character and status of Your Memorialists as "proprietors of the soil" by their inclusion in the same general electorate with the lease-holders of the Government Khas Mahal tracts.

(c) The partial isolation at present of Your Memorialists from the rest of their class in Bengal resulting in loss of their prestige, and generally retarding their progress.

(d) Apprehension that, in the future, this isolation will be more pronounced and complete. This is justified by the proposed Tenancy Legislation in which the Provincial Government contemplates treating Your Memorialists as a class distinct from the permanently settled Zemindars of Bengal, of whom, Your Memorialists, do, in fact, form an integral part.

(e) Numerical inferiority of Your Memorialists in the Province,—comprising the members of six families only,—due to isolation from Bengal Zemindars, which has reduced to a minimum the chances of their securing an adequate representation of their special interests in the Provincial Legislative Council. Though they represent the largest class interest in the Province, Your Memorialists have not been able to send one of their number to the Provincial Legislative Council through any of the general electorates. For representation of their interests in the Council, Your Memorialists have always had to depend on nomination by the Government.

(f) Insecurity of representation by nomination—Your Memorialists venture to point out the proposal in his Note on the Introduction of Reforms in Assam, by the Hon'ble the Chief Commissioner, to nominate a member occasionally from among Your Memorialists only when an important Bill connected with the District is going to be discussed in the Council.

(g) The inadequacy of the remedy by the provision for a special electorate for Your Memorialists—This will not afford adequate relief unless provision be made for the election of such a large number from their class as will make their presence felt in the Council.

(h) Apprehended danger to the special rights and privileges conferred on Your Memorialists by the Permanent Settlement of 1793—This is due to the fact that the subject of Land Taxation is proposed to be transferred to the jurisdiction of the Provincial Legislative Council, the bulk of the members of which being elected from areas liable to periodical settlement, will not, Your Memorialists are afraid, be friendly towards interests created by the Permanent Settlement of 1793. Your Memorialists are afraid that in that case, they will, in time, be merged with the lease-holders of the Khas Mahal tracts, who constitute a majority in the Province of Assam.

19. That Your Memorialists venture to submit that, for the due preservation of the rights and interests conferred on Your Memorialists by the Permanent Settlement of 1793, as also of the derivative rights of the tenantry, the re-incorporation of the District of Goalpara with Bengal is essential.

20. That Your Humble Memorialists further venture to submit that on occasions when boons are conferred or administrative reforms take place special communities naturally hope for the redress of their grievances. They had hailed the present epoch making Reform proposals with joy along with all other Indians. They had hoped that their grievances would receive the special consideration which they venture to think they deserve. The Hon'ble the Chief Commissioner's note, the expressed opinion of the special conference of the Assam Legislative Council and the refusal of the Franchise Committee to give them a hearing

have cast a gloom over the minds of these few unfortunate ancient families of zemindars. They are painfully thinking of the day when amid the general rejoicing of the whole of India they must reconcile themselves with a sigh to the lot which would be in store for them if their grievances are not redressed in time.

Your Excellency's humble memorialists respectfully pray that the Goalpara Zemindars may be re-united to the great body of Zemindars of Bengal to which they belonged for a considerable period of time. The prayer is based on a community of feeling arising out of past history, traditions, ties, language, religion and land tenure—all these being substantially similar to those governing the Zemindars and people in the adjoining districts of Jalpaiguri, Rangpur, Cooch-Bihar and portions of Dinajpur and Bogra in all of which there is reciprocal sympathetic feeling. Whereas in Assam the Goalpara zemindars are isolated in a corner and have nothing in common with the rest of the people in the Assam Valley Division.

And Your Excellency's humble Memorialists, as in duty bound, shall ever pray.

We subscribe ourselves as

Your Excellency's most obedient servants,

PRABHAT CHANDRA BARMA, of Gauripur and others.

No. 709-W., dated Shillong, the 20th May 1919.

From—The Hon'ble Mr. J. E. WEBSTER, C.I.E., I.C.S., Chief Secretary to the Chief Commissioner of Assam,

To—The Secretary to the Government of India, Home Department, Simla.

In continuation of this office letter No. 356-W., dated the 12th March 1919, I am directed to submit for the orders of the Government of India, a memorial from Babu Hari Prasad Nath and 505 other persons of the District of Goalpara, protesting against the prayer of certain Zamindars of that District for its transfer to Bengal and to say that the Chief Commissioner has nothing further to add to the remarks contained in my letter quoted above.

To

His Excellency the Right Honourable Frederic John Napier, Baron Chelmsford, P.C., G.M.S.I., G.C.M.G., G.M.I.E., Viceroy and Governor-General of India.

(THROUGH THE HONOURABLE THE CHIEF COMMISSIONER OF ASSAM, AND THE COMMISSIONER OF ASSAM VALLEY DISTRICT.)

The humble memorial of the people of the District of Goalpara in the Province of Assam most humbly and respectfully sheweth :—

1. That Your Excellency's most humble memorialists, the inhabitants of the District of Goalpara, beg most humbly and respectfully to lay before Your Excellency the following few lines with the earnest hope that they will meet with your Excellency's favourable consideration.

2. That having learnt with much concern that an agitation has been set on foot in this district by some designing persons for the transfer of this District to Bengal, and that some Zemindars of this District have also memorialised Your Excellency with the same object Your Excellency's humble memorialists beg most respectfully to put forward their most emphatic protest against such groundless and suicidal proposal.

3. That in support of their protest Your Excellency's humble memorialists beg most respectfully to submit that not only the District of Goalpara which was and still is a part of Assam but also the Districts of Jalpaiguri, Kooch Behar and Rangpur formed part of the ancient Kingdom of Kamrup for many centuries; that though the Districts of Kooch Behar, Rangpur and Jalpaiguri were separated from the Northern Kingdom of Assam under the Koch Kings, Goalpara remained a part and parcel of Assam as the Eastern Koch Kingdom and was later turned into a permanently settled District along with the Districts of Bengal; that it is needless to mention that the present Zemindaries in the District of Goalpara are but the offshoots of the said Eastern Kingdom. That for the past half a century or more, Goalpara has been treated and governed as a part of the Province of Assam.

4. That the indigenous people of this District are Assamese and have nothing in common with the Bengalis, either in religion, language, caste system or in social manners and customs; that any expert and impartial philologist will admit that the language spoken by the people of the Goalpara District is just like that spoken by the people of Lower Kamrup which is admittedly a part of Assam proper; that the social gradations and caste system in the District of Goalpara are just like those in the other Districts of the Brahmaputra Valley and quite different from those in Bengal.

5. That although Bengali was forced upon the District of Goalpara as court language and medium of Vernacular instruction for a fairly long period on a misrepresentation of facts by the illinformed Bengali officers of the Government it did not agree with the people being quite an alien tongue and that they after a hard struggle against a strong opposition put up by the Bengalis serving in the District have got their mother language Assamese introduced in Courts and Schools.

6. That so long as this District was attached to Bengal, the people of the District of Goalpara could not make any progress in any direction, partly for the indifference of the Local Zemindars and chiefly for the unjust interference of their Bengali Amlas, who tried to keep down the local people in all matters, so that their friends and kinsmen might share in the loaves and fishes of this District without any local hindrance or competition. That this state of things continued up to very recent times, now however on repeated memorials from the people, the Assam Administration have begun to see things in their true light, and are taking steps to give the down trodden people of Goalpara their due in matters of education and service; and that the people have considerably progressed ever since in those directions.

7. That in case the District of Goalpara be transferred to Bengal its 6 lacs of people will suffer from an inrush of Bengalis who, comparatively advanced, will dominate over them, and, being then of the same province, will lay claim to and monopolize all places of emoluments under the Government and the Zemindars, and their language and literature will likewise suffer for want of due encouragement.

8. That as regards the memorialist Zemindars mentioned above Your Excellency's humble memorialists beg respectfully to submit that most of them spend their time outside the Province and take little interest in their Estates and their tenants, entrusting the management of their affairs to their Bengali Officers in consequence of which one of the biggest Estates in spite of its several capable and intelligent proprietors was about to collapse when it was taken over by the Court of Wards; that the Raja of Gauipur, one of the Signatories of the memorial mentioned above, is an Assamese and his Rani Sahiba is a Scion of the great Baishnabite reformer of Assam—Sri Madhab Dev; that the Zemindars of Mechpara, though some of them have now renounced their religion, have been for generations the disciples of the family of the said Rani of Gauipur, and that the said Zemindars have to perform their religious rites in Assamese as the other Baishnabas of Assam; that originally the Zemindars of Porbatjuar were Assamese "Rajbansis" although the present Zemindars of that Estate hail from Kooh Bihar or Rangpur being the adopted sons of the original Assamese Zemindars; that the Zemindars of Chapat Estate, who is the only Bengali Zemindar in the Goalpara District, is still a minor and his Estate, tenanted by Assamese, is being managed by Bengali executors and officers; that the present Raja of Bijni who is a scion of the great Kooh Kings of Assam, is of unsound mind; and that after the death of the late proprietress the Estate has been taken over by the Court of Wards and is being managed by a Staff composed mainly of Bengalis.

9. That as regards the prayer of the said memorialist Zemindars for the transfer of the District of Goalpara to Bengal on the ground that the Bengal Tenancy Act and other Bengal Revenue Laws are not in force in this District, Your Excellency's humble memorialists beg leave to submit that after a due consideration of the local circumstances and requirements the Assam Administration are going to introduce a Bill regarding the Goalpara tenancy system, when, if Your Excellency's humble memorialists' information is correct, discussions and free criticisms from the tenants as well as from the Zemindars will be invited in the light of which it is hoped the Bill will be finally shaped and passed into law.

10. That if the District be transferred to Bengal and the Zemindaries subjected, as desired by their proprietors, to the provisions of the Bengal Tenancy Act, the step may or may not benefit the proprietors, but there is no doubt that it will injure the interests of the tenantry as that Act was framed with a special reference to the circumstances of the Bengal tenants which are very much different from those of the Goalpara tenants.

11. That in the circumstances stated above your Excellency's humble memorialists most respectfully pray that Your Excellency will be graciously pleased to leave the District of Goalpara as part of Assam and thereby maintain the present boundaries of the Province intact, in accordance with the declaration made by His Most August and Gracious Majesty the King Emperor at the Delhi Durbar.

And for this act of kindness, statesmanship and benevolent justice, Your Excellency's humble memorialists, as in duty bound, shall ever pray.

We beg to subscribe ourselves to be your Excellency's most humble memorialists.

HARIPRASAD NATH,
and others,

APPENDIX V.

Statement showing the powers of legislation in the territories referred to in the Despatch.

1. The position with regard to the different territories referred to in this despatch is so complicated that it will probably be of assistance first to refer generally to the different provisions of the law by which legislation in them is governed, and then to tabulate the territories with a short statement of the law as applicable to each.

2. *Power to legislate by Regulation under section 71 of the Government of India Act, 1915.*—This power can be exercised in respect of any territory to which the Secretary of State has by resolution in council applied the provisions of section 71. The provisions of the section can be applied to any part of British India, but in practice power to legislate by Regulation is only given in respect of backward areas. The application of the section can also be withdrawn in the same way.

3. *Powers conferred by the Scheduled Districts Act, 1874.*

Act XIV

(a) "Scheduled Districts" are those which are included in the first Schedule to Act XIV of 1874, and the term also includes any other territory in respect of which the power to make Regulations has since the passing of the Act been created by virtue of a resolution by the Secretary of State under s. 71 of the Government of India Act, 1915.

(b) The provisions of the Act do not apply *proprio vigore* to the Scheduled Districts, but only to such of them as have been notified under section 3.

(c) In these districts the local Government, with the previous sanction of the Governor General in Council, is empowered to declare what enactments are actually in force, or that particular enactments are not actually in force, and to extend to a scheduled district, with or without modification, any enactment which is in force in any part of British India.

4. *The Laws Local Extent Act (XV of 1874)* was passed immediately after the Scheduled Districts Act, and declared certain Acts to be in force in British India as a whole or in particular provinces, but in each case excepting the "Scheduled Districts". These were set out again in the Schedule to Act XV of 1874, and were the same as in the Scheduled Districts Act. But in as much as this Act did not contain a provision similar to that in s. 1 of the Scheduled Districts Act, by which any territory subsequently brought under s. 71 of the Government of India Act thereby also became "a Scheduled District," the field covered by the two Acts is not now identical.

5. In the case of many of the territories to which section 71 of the Government of India Act, 1915, applies, the Government of India have by Regulation declared to what extent the ordinary law shall be in force, though these enactments (which are usually spoken of as de-regulationizing enactments) vary considerably in their terms, and each of them needs to be considered. There are also in the case of some territories other enactments of a similar character which also require to be taken into account.

6. So far as concerns territories to which the Scheduled Districts Act only applies, the rule is that all laws, whether Imperial or Provincial which apply to the whole of a province are to be treated as in force in such territories unless expressly excluded.

7. The tabulated statement which follows sets out the position as accurately as is possible in the space, with regard to each of the territories referred to in the Despatch. Column 3 of the table shows the cases in which the Scheduled Districts Act, 1874, is actually in force or can be brought into force by virtue of a notification under section 3 of that Act. Column 4 refers to the Laws Local Extent Act, 1874, though it seems to have no special applicability to any of the districts referred to.

1	2	3	4	5	6	7
Territory referred to in Despatch.	Whether s. 71 of Government of India Act, 1915, applies.	Whether Scheduled Districts Act applies.	Whether schndud under Laws Local Extent Act.	De-regulationizing Enactments (if any).	Other similar enactments (if any).	Remarks.
Assam	Yes	Yes	Yes	Reg. II of 1880 provides that in such frontier tracts as may be notified by the Governor-General in Council the Local Government may bar the operation of any enactment in force. Under this Reg. various hill tracts have been notified, and in them the operation of various Acts has been barred.	Assam Act II of 1915 provides that in the absence of special provisions to the contrary no local Act shall come into force in certain specified hill districts unless extended to them under the Scheduled Districts Act or otherwise (s. 14); and this is to be deemed to apply to all local Acts whether passed before or after 1915.	
Sonthal Pargannas	Yes	No (but can be applied by notification.)	Yes	Reg. III of 1872 as amended by Reg. III of 1879: (1) declares the enactments in force. (2) bars other enactments not expressly applying. (3) gives power to the local Government to declare any other enactment to be in force and to withdraw the same, or with the sanction of the Governor-General in Council to withdraw the operation of any enactment declared to be in force under (1).	Act XXXVII of 1875 removed the Sonthal Pargannas from the operation of the General Bengal Code and declared that no law thereafter passed by the Governor-General in Council shall extend to any part of them unless specially noted therein. Reg. III of 1872 declared this Act to be in force. See also Act X of 1857.	
Chutia	Yes	Yes	Yes (excluding the Khond-lands.)	Reg. III of 1913: (1) declares the enactments in force. (2) bars other enactments not expressly applying or extended. (3) gives power to Local Government subject to the control of the Governor-General in Council to withdraw operation of any enactment declared to be in force under (1) and to declare any other enactment to be in force.		
Lola Nagpur	No	No (but can be applied by notification.)	Yes			
Simlabpur	No	To parts only see in Col. 7	As in Column 3			According to the Bihar and Orissa Government's letter the only portions of Simlabpur which are Scheduled Districts are the three zamindaris of Bara Simbar, Kola-bira, and Rampur, forming about 1-3rd of the whole district. They have all been notified under the Act. They were transferred from the Central Provinces to Bengal in 1905 and from Bengal to Bihar and Orissa in 1912.

Kazandiro Islands	Yes	Yes	Yes	Reg. I of 1912 declares that the Reg. and three other enactments alone shall be in force.		
Agency Tracts in Ganjam and Visakhapatnam.	No	Yes	Yes		Act XXIV of 1880 suspended all existing rules for the administration of civil and criminal justice and for collection of revenue, and placed the territories under agency administration giving the Governor in Council power to make rules for their guidance.	
Villages in the Godavari District	Yes but see in Column 7	Yes	Yes			The "Rampa Country," which is mentioned along with the rest of the Godavari villages, etc., in the Scheduled Districts Act and Laws Local Extent Act, does not appear to have been brought under section 71. The Taluqs of Nuzvid, Alibaka and Cherala are not referred to in the Despatch or in the Madras letter. They were transferred from the Central Provinces in 1909 and brought under section 71 in the same year. The Scheduled Districts Act therefore applies to them but not the Laws Local Extent Act.
Chittagong Hill	Yes	No (but can be applied by notification.)	Yes	Reg. I of 1900— (1) declares the law in force (2) bars all other enactments (3) gives power to Local Government with sanction of Governor-General in Council to apply other enactments with modifications and to withdraw the operation of any enactment declared to be in force under (1).		
Darjiling District	No	Yes	Yes			
Siphi	Yes	Yes	Yes	Reg. I of 1873 enacts that no law thereafter passed by the Governor-General in Council shall extend to Siphi unless it is specially named.		
Lahaul	No	Yes	Yes			

TENTH DESPATCH
ON
INDIAN CONSTITUTIONAL REFORMS
(Champaran and Kaira Cases.)

No. 8 of 1919.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

REFORMS.

To

THE RIGHT HONOURABLE EDWIN MONTAGU.

His Majesty's Secretary of State for India.

Simla, June 5, 1919.

SIR,

We have the honour to refer you to the remarks in para. 127 of our despatch of March 5, 1919, in regard to the minute of dissent by our colleague Sir Sankaran Nair. In view of the necessity of our views on the main scheme of reform reaching you at the earliest possible moment, we decided not to delay the issue of the despatch until we had had an opportunity of examining our colleague's statement. We have since examined that document and we feel bound to place on record what we consider to be a more accurate representation of the fact in what are known as the Champaran and Kaira cases than our colleague has given in Appendix A, which is referred to in paragraph 12 of his minute. We enclose therefore for your information a note on each of these cases.

2. Our Hon'ble colleague, however, remains dissatisfied with the narratives presented in the two notes and has appended to this despatch a minute of dissent containing his further criticisms on them. So far as the matters in dispute in Champaran are concerned, the main point of our Hon'ble colleague's criticism is that the ryots' grievances were of long standing and that for the purpose of their redress it was not necessary to wait for the results of the settlement operations. As we differed from his estimate upon this point, we have been at pains to obtain from the local Government the further report which we attach as enclosure 3. It shows, to our minds conclusively, how intricate were the questions both of fact and of law affecting the indigo cultivation in Bihar upon which a just decision depended; and it leaves us in no doubt whatever that the first opportunity of bringing the matters in dispute to a satisfactory conclusion was afforded to the local Government by the completion of the settlement operations and by the preparation of the settlement record. Without the facts and figures which had been laboriously collected by the settlement staff throughout the long months during which it had been at work in the Champaran district, the committee of enquiry could not have completed their task. As regards the grievances in connexion with the *tinkathia* system to which our Hon'ble colleague refers, we think it only fair to observe that the Government of Bihar and Orissa had stopped, the levy of unlawful cesses before Mr. Gandhi's visit to the district. That the Champaran ryots had other miscellaneous grievances against their landlords is undeniable; but our conclusion is that these were of a minor character, and indeed exactly such as are to be found in all rural districts in all parts of India. Sir Sankaran Nair is mistaken in his reference to "communal waste." The local Government has informed us that there is not and probably never has been any such thing as 'communal waste' in the Champaran district.

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3. Nor can we accept our colleague's criticism of the statement relating to the dispute in Kaira. It is a well-established principle of revenue administration which, in our opinion, has not been shaken by our colleague's comments, that a *ryotwari* tenant remains liable for his revenue, year in and year out, unless a general remission is ordered on account of widespread failure of crops. The account given in Sir Sankaran Nair's minute of dissent appended to our despatch of March 5, is regarded by the Governor in Council as so seriously inaccurate that for the purpose of correcting it His Excellency in Council has addressed us in the letter which we attach as enclosure 4 to this despatch. They have also requested us to communicate the purport of this correction to you by telegraph, and to give it the same publicity in India as the minute of dissent has obtained.

4. It is with the greatest reluctance that we have assented to any prolongation of a controversial discussion with our Hon'ble colleague, but the fact that in documents, which are before the public, his authority has been lent to statements which we cannot but regard as seriously inaccurate and calculated to produce an unfortunate impression if uncorrected, has constrained us to place upon formal record our reply to them with the intention that it may receive equal publicity.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

CHELMSFORD.

C. C. MONRO.

C. SANKARAN NAIR.

G. R. LOWNDES.

W. H. VINCENT.

R. A. MANT.

H. F. HOWARD.

Minute of Dissent.

It is stated in the Despatch (I include the first two notes in the term) that though the Local Government had always realised that the system of indigo cultivation was essentially wrong, they were unable to devise measures for permanent relief until the settlement operations were concluded; that the Committee were able to dispose of the question only by availing themselves of the information which had been collected by the settlement staff and that there is, therefore, no ground for the charge that the Government were remiss in taking the needful steps, or that it was at the instance of the National Congress or Mr. Gandhi that the matters were finally settled. That the consideration of legitimate grievances which were provoking riots had to be postponed for seven years for the completion of a revenue inquiry is not satisfactory. It is certainly not a justification if it is any excuse. Disregarding that aspect of the matter I shall make a few observations now on the question as to how far the statement made above about the necessity of the conclusion of the settlement operations can be supported.

In connection with the prevalent system of 'Tinkathia' indigo cultivation, one complaint was that the price paid by the planter, etc., to the cultivator is fixed and remains unchanged for a long period of years, with the result that the rise in general prices being continuous, if it was fair at the beginning of any period, it had become too low by the end of it. This created great discontent, and every rise in price, with one exception, was preceded by a period of friction and discontent, and an increase was seldom effected except by disturbance and agitation. The remedy proposed by the Committee was that the price paid for the indigo must be settled by voluntary agreement and entirely on a commercial basis. Settlement operations had nothing to do with this.

The second point was that the price is fixed on the area and does not vary with the outturn of the crop, and the plots to be cultivated with indigo were selected by the planter. The result was the planter, having to pay the same price for a good or a bad crop, selected for indigo the better land in the holding, often the best manured homestead land. The Committee found that the system was radically defective for the reasons stated by them, and they recommended that the particular plots to be devoted to indigo must be entirely at the option of the ryot. It was not necessary to rely on any settlement operation to settle this matter.

Another great complaint was that the payment of a fixed rate per acre led to the close supervision of the indigo cultivation by factory subordinates who thus had opportunities for harassing cultivators against whom they may have a grudge or to exact payment as the price of their favour. The tenant had also no interest in the outturn. The Committee found that the system was inherently bad, and they recommended that the price must be fixed on the weight of the crop. This stands on the same footing as the previous two complaints.

Another great objection was that the ryots were compelled to grow indigo. The Committee found that for the last 50 years the growing of indigo under the prevalent system of cultivation had been disliked by the ryots and that the ryots would at any time have been glad to relinquish it. They recommended accordingly that indigo must be grown under the voluntary system and that the tenant must be absolutely free to enter into the contract or refrain from making it. Surely, the necessity of relieving him from such alleged obligation was not a question for the settlement officer; it was for the Government.

Another complaint was that though the growing of crops other than indigo under 'Sattia' conditions was expressly forbidden by a byelaw of the Bihar Planters' Association adopted in 1910 at the instance of Government after the disturbance which took place at the end of 1908 which affected 4 factories, they continued to act in direct contravention of the byelaw passed with special reference to practices in those concerns.

In recent years, agreements commonly known as 'Sharabashi' were executed by the tenants for the payment of enhanced rents in consideration of being allowed to abandon the indigo cultivation. The tenants denied the legality of

those agreements. Whether legal or not, the Committee felt the great desirability of an immediate settlement between landlords and tenants of this difficult question and an agreement was arrived at between the planters and Mr. Ghandi on this question. The Committee accepted that compromise. With reference to this question, the Committee availed themselves of the results of the settlement enquiry, and the evidence of the settlement officer was useful to them. And it is very probable that in accepting the compromise they had regard to the results of the settlement operations.

Another complaint had reference to the payment of what is called "Tawan" in recent years, under which the ryots purchased freedom from indigo cultivation for a lump-sum. The Committee came to the conclusion that the taking of "Tawan" was not justified in temporarily leased villages. They recommended the refund of "Tawan" in such villages and a reduction in permanently leased villages by a few estates. This question also was not dependent upon the results of any settlement operations.

Another complaint was that in addition to the recorded rent, certain unauthorised dues were regularly levied from the tenants. The Committee pointed out that this was forbidden by statutory law, though not a single suit was brought to contest such levies under section 75 of the Bengal Tenancy Act which provided the legal remedy. Besides other recommendations to stop this illegal practice, the Committee recommended that the Collector, of his own motion, might inquire into and punish the exaction by a landlord of this illegal cess. This also has nothing to do with settlement operations.

There are various other legitimate grievances of the tenants which are referred to in the Report of the Committee, like the levy of fees on transfers, the right claimed by the estates to all the hides of dead cattle, to a monopoly of trade in kerosine oil, to rights in trees, to inadequate rates by the landlords for labour, supply of carts, etc., for which it appears to me to be impossible to say it was necessary to await for the conclusion of the settlement operations.

In addition to the question of commutation by enhanced rent in which the Committee availed themselves of the services of the settlement staff, the only other similar case I have been able to find is the question relating to the title to waste lands. On account of the importance of this question, I shall refer to it in some detail. Not only in the district of Champéron but elsewhere in various provinces of India, the claim to what is ordinarily called "communal waste" has led to great litigation between the Government or the Zamindars as the case may be and the ryots. It is the action of the settlement officer generally in reserving this communal waste as government or zamindari property that gives rise to litigation. If in Champéron, therefore, the Government delayed enquiry into the ryots' claims for the decision of the settlement officer, I am not surprised that the ryots made that a matter of complaint. Again the rival claims to communal waste as between the zamindar landlords and the ryots have led to disputes and often to riots. In Champéron, practically all the wasteland has been recorded as being in the exclusive possession of the landlords except certain small plots. This deprives the village community of their alleged right to use the land for communal purposes, such as grazing, etc., and it also enables a landlord to put pressure on the tenants in all disputes between them. Though the Committee now recommended that suitable plots of land for communal use should be set apart for the villagers, I am satisfied that Mr. Gandbi as the representative of the ryots failed to realise the importance of this question in their interests. The Committee and the Local Government seem to have accepted the demarcation of lands by the settlement officer. It appears to me that there is very little doubt that instead of allowing the settlement officer to deal with the question, it would have been far better if the Government had intervened by legislation as elsewhere. The ryots of Champéron have been unable, as already pointed out by me and explained in the Report, to enforce their remedies even in plain cases by resort to courts.

In consideration of the facts set out above, I am unable to agree with the view accepted by my Colleagues which no doubt is in accordance with the view

put forward by the Local Government in their resolution appointing the Committee. It is impossible to deny, in these circumstances, that the ryots and those who supported them had some grounds for believing that the refusal to publish Mr. Gourlay's report was due to the disinclination to disclose the legitimate grievances of the ryots and the remedies proposed therein. Except two or three of them, the grievances are old-standing. Most, if not all, of them were noticed in Mr. Gourlay's Report. Some of them were declared illegal by the Advocate-General. But the Government, giving some relief by increasing the price of indigo, refused to interfere in all other matters, not on the ground that the settlement operations must be carried out or concluded, but that any redress afforded to the ryots will heavily hit the planter. See the letter to the Government of India, 4th June 1910. I cannot agree therefore that the Local Government had any legitimate excuse for delay.

The correspondence between the Government of India and the Local Government also bears out what I have stated. The Despatch bears testimony to the unwillingness of the Local Government to start the enquiry to which they after all agreed only on pressure by the Government of India.

In all other respects the Despatch goes further than my Minute of Dissent and more than confirms the statements that I have made.

The note on the Kaira case only shows that the Government officials did not give any relief to the ryots and were precluded from giving any by the revenue rules. It admits that no inquiry is allowed into individual circumstances, with the result that even if there is no crop on the land the ryot would be bound to pay revenue. It also admits that even where a whole locality is affected, revenue may be levied from a ryot whose crop might not suffice for his subsistence. It also admits that no ryot is entitled to any suspension or remission of revenue under the laws of the country and that any such suspension or remission is a matter purely of grace. The Despatch also says that the ryots had no right to ask for any independent inquiry as to the nature of the crop even by another Government department. My Colleagues further state that these rules are in accordance with the present system of fixed assessment under which the assessee *accepts* the periodical assessment for a term of years and *undertakes* to pay his assessment in bad years no less than in good. They fail to state, however, that this acceptance is made *practically* under coercion. There is nothing like acceptance in the ordinary sense of the term. A ryot in possession of ancestral property in which his ancestors and he have sunk their capital and on which they have bestowed all their labour has to pay *any* revenue that might be fixed upon it by the Revenue officials. He cannot go to a court of law to impeach the order on any ground whatever, not even on the ground that the revenue imposed leaves him no margin of subsistence or deprives him of the fruits of his capital and labour. If he does not pay he will have to surrender his land without any compensation for the capital and labour sunk. The social conditions of the country which keep him usually tied to his community and locality do not allow him to emigrate. He cannot get other land, as land is Government monopoly. Under these conditions, it is futile to say that there is any voluntary undertaking by him to pay the assessment in bad years no less than in good. Yet, even under these conditions, many ryots leave the land and go to Fiji and elsewhere to labour under unmentionable conditions. This is the system responsible for the destitution of the ryot. My statements as to Kaira destitution and necessity of relief have not been and cannot be denied. They can be proved by the direct testimony of respectable witnesses. The fact of collection of revenue is not evidence of capacity to pay. It is, in Kaira, proof of the rigour of collection.

It is admitted that, in these circumstances, it was the representatives of the educated classes who laboured for the relief of the destitute ryots in Kaira. That there was no valid ground for their agitation according to the rules of the revenue system, only proves the necessity of the radical alteration of that revenue system. That their agitation did not fully succeed in its object is true, but it proves only the necessity of constitutional reform.

The above observations were made by me in reply to Appendices 1 and 2. Since then we have received Appendices 3 and 4. As to the further note (III) obtained from the Local Government on the Champéron occurrences, I have

only to say that the questions (a), (b) and (d) are law questions on which generally, as I have already stated, the Advocate General had pronounced his opinion; they were not questions for decision by a settlement officer; and the conclusions and recommendations of the Committee were not based, as would appear from a perusal of their Report, on any information collected by the settlement officer. As to (c), as I have already pointed out, the information collected by the settlement officer was useful and the Committee used that information. I am not able to see the bearing of the rest of the note on my contention.

As to the letter of the Bombay Government, disregarding their very courteous references to myself which however are entirely inaccurate, it is enough to draw attention to one statement: "The fundamental misconception underlying Sir C. Sankaran Nair's presentment of the case is that an *individual* ryot has a *claim* to suspension if *his particular* crop fails" (paragraph 4). I never said anything of the sort but just the opposite. These are my words: "It is a feature of the Revenue rules that individual cases of hardship are not attended to, or, in other words, an individual is not exempted from payment for failure of crops in his holding only, but if there is a failure in the locality he might get relief with others." The whole letter in so far as it is relevant is based on this erroneous statement and, in my opinion, does not deserve any further attention.

June 5, 1919.

C. SANKARAN NAIR.

List of enclosures.

- I.—Note on the Champaran case.
- II.—Note on the Kaira case.
- III.—Further note on the Champaran case.
- IV.—Letter from the Government of Bombay no. 5447, dated May 28, 1919.

APPENDIX 1.

Note on the Champaran case.

The relations between the indigo planters and the ryots cultivating indigo under them have been repeatedly under the notice of Government for about 60 years. The trouble first came to a head in Lower Bengal and led to the appointment of the Indigo Commission in 1860, but in 1867 similar discontent on the part of the ryots began to show itself in the Champaran district. An enquiry made in that year by the Commissioner of Tirhut showed that the trouble arose mainly from the system under which ryots entered into agreements with the planters to grow nothing but indigo on a fixed proportion of their holdings. It appeared that indigo required much labour and was less profitable than other crops, while the system also led to the harassment of ryots by factory servants. On the other hand, the ryots continued to enter into these agreements because they could not resist the temptation to take the advances offered and the undertaking that rents would not be enhanced so long as they grew indigo and because various methods of persuasion were applied. The trouble was settled for the time being on the intervention of Government by a considerable enhancement of the rates paid to the ryot for indigo.

2. This enhancement smoothed matters over for the time, but complaints against the working of the system continued to be received from various districts and in 1875 the Commissioner of Patna suggested the appointment of an Indigo Commission. The local Government, however, considered that the discontent was not so widespread as to call for the appointment of a Commission and contented itself with a warning to magistrates to administer the existing law vigorously.

3. In 1877, the matter again came before Government with particular reference to the Muzaffarpur district and as a result of discussions the Bihar Planters' Association was formed in 1878 and a set of rules drawn up, the most important of which secured a further increase in the price paid per bigha for indigo.

4. These measures resulted in an improvement in the relations between the planters and the ryots and there was no further trouble until 1908 when disturbances broke out in Bettiah. An enquiry made by Mr. Gourlay showed that the causes of discontent were the same as those which were brought to light in 1867. Government again intervened, and the Planters' Association had to make further concessions, the most important of which were yet another increase by $12\frac{1}{2}$ per cent in the price paid for indigo and a reduction by as much as one-third of the proportion of his holding on which the ryot was compelled to grow indigo. This was not regarded by Government as a permanent solution of the problem but as a fairly satisfactory settlement which, it was hoped, might tide the industry over the next few years which it was recognised would be a critical period owing to the competition of synthetic indigo.

5. The reports of Mr. Gourlay and of the local officers had shown that the troubles in the Champaran district were largely economic and the local Government had for many years realised that no satisfactory solution of these agrarian problems could be found until the settlement records had been brought up to date. The work of settlement imposes a great strain on the gazetted staff of Government and must be undertaken according to a carefully planned programme, any deviation from which is liable to cause confusion, but when fresh complaints began to come in from ryots in the Bettiah sub-division in 1912-13 Government advanced the programme of settlement and work was started in the Champaran district in the cold weather of 1913. The settlement operations were still in progress when Mr. Gandhi arrived in the district in 1917. It may be mentioned here that the settlement of a district is an operation of considerable magnitude. The area of the Champaran district

is 3,500 square miles and the settlement record comprises 3,500,000 plots and about 500,000 ryoti holdings. The work has to be taken up in instalments by areas of from 800 to 1,200 square miles, and in each of these areas the settlement staff has to investigate and record the facts of the situation plot by plot and holding by holding and to examine and settle all disputes between tenants and landlords, whether relating to conditions of tenancy or amount of rent. In the first year the facts are ascertained by field to field enquiry: in the second year the draft record is prepared and explained to the parties and published: and in the third year the case work connected with the settlement of rents, etc., is undertaken. This last stage, with appeals to the special Judge appointed for the purpose, may carry on the work to a 4th year. Thus in each block of 800 to 1200 square miles the work is spread over at least three years and in a district of the size of Champaran the settlement operations must take about 7 years to complete. It may further be mentioned that when the work was at its height the settlement staff consisted of three civilian officers, about 40 deputy and sub-deputy collectors and a large number of trained subordinates.

6. Enough has been said to show that the settlement of agrarian disputes such as those which were causing the trouble in the Champaran district is an exceedingly complicated business and it was for this reason that the Government of Bihar and Orissa refused the requests made from time to time in the Legislative Council between 1913 and 1915 for the appointment of a special commission of enquiry, holding that the expert settlement staff were in every way a better agency for the purpose than a committee could possibly be. That the correctness of this decision was generally recognised is shown by the voting on a resolution moved in the Legislative Council in April 1915: the Hon'ble Member who moved for the appointment of a committee obtained only 3 supporters, while 27 including 13 non officials voted against the motion. If the result of the enquiry made by the committee which was eventually appointed be pointed to as an argument that a committee might with advantage have been appointed at an earlier stage, it is sufficient to reply that when the Champaran Committee was constituted in 1917 the settlement enquiries were approaching completion and the committee had a record prepared by the expert staff on which to work and base its recommendations. It cannot be too strongly emphasized that it was to the settlement officers that all parties turned during the course of the enquiry for reliable information. No commission of enquiry appointed by Government *ad hoc* to enquire into agrarian grievances could possibly have elicited the information compiled by the settlement agency, and without this there could be no reliable basis for proposals to settle the differences between the planters and the ryots.

7. It may be noticed here that the complaints which came in from 1912-13 onwards were different from those which were received on previous occasions. In one part of the district the main grievance was the levy of illegal cesses (*abwab*) by thikadars—not only indigo planters but others as well—while in another part the trouble arose out of an attempt by the planters, when the indigo industry declined on account of the competition of the synthetic variety, to extract from their ryots compensation for their release from the obligation to grow indigo. The first of these grievances was enquired into by the local officers and by April 1916 the local Government had passed orders which were calculated to stop completely the levy of illegal cesses: the second was a matter which could not be settled without a detailed examination of the incidents of tenant right in each holding and this examination, which was carried out by the settlement staff in the course of their ordinary enquiries was well advanced by 1917.

8. This was the state of affairs when Mr. Gandhi appeared in the Champaran district to make his enquiry. Before starting his enquiry Mr. Gandhi called on the Commissioner, Tirhut Division, with a request that the local officers would help him. The Commissioner pointed out that an enquiry was already in progress in connection with the settlement operations and that Mr. Gandhi's intervention would be an embarrassment rather than an advantage.

He also asked Mr. Gandhi, pending a consideration of his request, to furnish him with credentials in support of his statement that he was undertaking the enquiry in response to an insistent public demand. Mr. Gandhi then sent to the Commissioner a letter from certain persons inviting him to visit the district, but without waiting for any further communication from the Commissioner he left for Champaran. On further consideration the Commissioner considered that an enquiry by Mr. Gandhi might lead to a disturbance of the peace and he directed the District Magistrate to issue an order against him under sec. 144, Criminal Procedure Code, requiring him to leave the Champaran district, if he should arrive there. At the same time he reported the facts to the local Government and recommended the issue of an order under the Defence of India Rules, excluding Mr. Gandhi from the Tirhut Division. The local Government did not agree with the Commissioner and considered that he had committed an error of judgment, but in the mean time the District Magistrate of Champaran had served on Mr. Gandhi the order under sec. 144, Criminal Procedure Code, and when the latter declined to leave the district in obedience to the order he was prosecuted under sec. 188, Indian Penal Code. He pleaded guilty to the charge, and the Magistrate suspended orders and wired to the local Government for orders. The local Government, as already stated, disapproved of the action taken by the Commissioner and when these fresh facts came to their notice they immediately wired to the local authorities to abandon the criminal proceedings and to give Mr. Gandhi every reasonable facility for obtaining information he desired.

9. The planters not unnaturally resented Mr. Gandhi's unauthorised interference and, anticipating that it would cause unrest and disturbances among the ryots, they protested against it through the European Associations. On the other hand, Mr. Gandhi, in sending his report to Government on completion of his enquiry, himself admitted that he had received every courtesy from those planters with whom he had come in contact.

10. The final agreement of the Bihar and Orissa Government to appoint the Champaran Committee has been represented in some quarters as a surrender to Mr. Gandhi and the agitation of his followers. This is incorrect. When the disturbances in the Champaran district consequent on Mr. Gandhi's enquiry were first brought to the notice of the Government of India they at once asked the Bihar and Orissa Government to consider the expediency of appointing a committee of enquiry consisting of officials and non-officials. The local Government were not at first inclined to accept the suggestion, as they still adhered to the opinion that the various problems could best be solved on a consideration of the reports of the settlement staff whose operations were nearing completion. On further consideration, however, they accepted the proposal that a committee should be appointed and that Mr. Gandhi should be offered a seat on it. The chief reason for this change of attitude was that the continuance of Mr. Gandhi's private enquiry was producing great excitement amongst the ryots and that cases of destruction of property were beginning to occur. Mr. Gandhi's visit took place at a most inopportune moment, as at a time of settlement the relations between landlords and tenants are apt to be strained, and when the rumour began to go around that Mr. Gandhi had been sent to Champaran by the Viceroy to redress the grievances of the people and the influence of the local officials was being undermined, it was recognised that the situation was so serious as to require early action. The situation was thus materially different from that in 1915 when the resolution in the Legislative Council was rejected and the local Government therefore agreed to the appointment of a committee and to the placing before it of the material collected by the settlement staff during the previous four years. Finally, it may be mentioned that Mr. Gandhi did not ask for the appointment of a committee and that it was only after a long interview with the Lieutenant Governor that he consented to serve on it. Thus Mr. Gandhi was not responsible for the change of attitude of the local Government except in so far as his intervention brought the ill-feeling between the planters and the ryots to a head.

11. The findings of the committee are not relevant to the purpose of this note. If further information in regard to them is required, it will be found in the committee's report, a copy of which was submitted to the India Office with the Legislative Department letter to the Under Secretary of State for India, no. 152, dated December 1, 1917. It may, however, be mentioned that there has recently been a movement on the part of the ryots in certain areas of the Champaran district to repudiate the compromise made on their behalf by Mr. Gandhi and, while it undoubtedly saved a mass of litigation in the civil courts, it is by no means certain that the final results would have been better or worse for the ryots as a whole if Mr. Gandhi had not intervened.

12. To sum up it may be said that for the last 60 years the relations between the indigo planters and their ryots have been repeatedly under the notice of Government and that on at least three occasions prior to 1908 Government intervened in the disputes on behalf of the ryots. Further, from the year 1908, if not earlier, Government realised that the system under which indigo was cultivated was essentially wrong and that any remedies which they could apply without entirely upsetting the system could afford only temporary relief. They were unable to tackle the problem at once because they realized that no solution could be found until the relations between the planters and their tenants had been examined in detail, and for this they had to wait until the settlement operations could be taken in hand. The position was further complicated by the fact that the system was based on contracts between the planters and the ryots: interference in an elaborate system of contractual relations is obviously a matter of extreme delicacy, and no Government could venture on such interference except on the clearest proofs of necessity. Mr. Gandhi's intervention, by bringing the discontent of the ryots to a head and thus threatening the district with an outburst of lawlessness, compelled the Government to anticipate the programme which it had mapped out, but by that time the information which the local Government had always insisted on as being essential had been collected by the settlement staff and it was only because they had this information at their disposal that the committee were able to bring their labours to so speedy a conclusion.

APPENDIX II.

Note on the Kaira Case.

The Kaira agitation arose out of the land revenue demand for the year 1917-18. Prior to this the revenue condition of the district was excellent, revenue suspensions from previous years being *nil* in the three talukas to which the crop failure of 1917-18 was practically confined. In 1917 heavy late rains considerably damaged some of the *kharif* crops, especially bajri, in parts of the district; while on the other hand, the rice and other later crops were unusually good. The Bombay rules relating to suspensions and remissions of land revenue which were approved by the Government of India in 1907, proceed on the principles that in the case of general calamities homogeneous areas should be dealt with as a whole, enquiry into individual circumstances being avoided in the interests of expeditious disposal, that in the first instance relief should invariably be given in the form of suspension and not of remission, and that suspensions should be granted on the following scale, *viz.*, in full if the crop is one-third of a normal* crop or less, to the extent of one-half the demand if the crop is more than one-third but less than one-half of a normal crop; and not at all in other cases. In accordance with these rules the Collector (himself an Indian) after local investigation granted varying degrees of suspension in 104 villages in three talukas, the amount suspended being about 20 per cent of their total revenue demand and 7.4 per cent. of the demand for the whole district. Shortly before he passed his formal orders, a deputation headed by two Bombay lawyers waited on him on December 15, 1917, and alleging an almost entire failure of all crops, demanded immediate remission in the majority of cases, and suspensions in full in others. The Collector pointed out that the former request was against the rules, but promised to consider the case for suspensions, as a result of which he passed the above orders. The matter was thereupon taken up by the Gujrat Sabha whose headquarters are at Ahmedabad, outside the Kaira district altogether. Its method of operations was to ignore the local officers, and to address petitions and telegrams direct to the local Government claiming an independent enquiry. About the beginning of January it issued a circular to the villagers of Kaira stating that, as no reply had been received from the Bombay Government, those whose crops had failed entirely or who had not got more than one-third of a normal crop should withhold payment of land revenue. On this the local Government issued its first Press Note of January 16, 1918, detailing the facts and warning the revenue assesses against any attempt to refuse payment in the face of formal orders to pay.

2. Mr. Gandhi began to interest himself in the matter during the month of February, after the *kharif* harvest in question had been reaped and removed from the fields. He contended, however, that reliable results could be obtained by asking cultivators to say what crops they had obtained that year and what crops they expected to obtain in a normal year. He also took the view that *rabi* crops, even cotton crops, should not be taken into consideration in determining the average crop valuation of a village. These representations were personally discussed with the Commissioner and Collector, and the latter re-examined the estimates of outturn in villages in the neighbourhood of Mr. Gandhi's own enquiries. Mr. Gandhi was invited to be present at this re-examination and in one case was present. It was decided that there was no ground for modification of the orders already passed and Mr. Gandhi was so informed on March 20, 1918.

3. On the following day the Gujrat Sabha, presided over by Mr. Gandhi, passed a resolution that resort should be had to passive resistance; and Mr. Gandhi proceeded to initiate the campaign on March 22, by advising a large meeting of Agriculturists of the Kaira district that, if they really and honestly believed that their crops were less than one-third of a normal crop, they should resort to passive resistance by refusing to pay the revenue and allow Government to recover it in any manner it pleased. An undertaking to this effect is said to have been signed by some 200 agriculturists, "small and big", at the meeting. The campaign was continued in March and April, and according to press reports had attained its maximum of 2,337 signatories by April 21.

*NOTE.—Under the system of notation followed in the Bombay Presidency a normal crop is described as "12 annas."

4. Meanwhile the collection of land revenue was being effected to a large extent in the district. In a speech at Nadiad on April 12, the Commissioner announced that not less than 50 per cent. had already been paid, while the Collector reported on April 10, that some persons who had signed Mr. Gandhi's pledge were already beginning to pay up, and that Mr. Gandhi appeared to be ready to make a compromise. On April 24, the Commissioner pointed out to the Collector that the position had been "to a great extent changed within the last few days by reason of the issue of the Viceroy's order that every effort should be made to sink domestic differences and to bring about the cessation of political propaganda at a time of national crisis" (the great German offensive was then at its height). In these circumstances he considered it the duty of Government to make any concession which does not involve a sacrifice of the essential rights of the State". The objective should be the early and complete collection of all arrears, and he directed in supersession of all previous orders that—

- (1) Recovery of arrears by means of forfeiture of the land under sec. 150 (b) of the Bombay Land Revenue Code should be dropped.
- (2) If full payment was tendered, payment of the "*chothai*" fine, i.e., the penalty, not exceeding one-fourth of the arrear, leviable under sec. 148 of the Bombay Land Revenue Code, need not be insisted on.
- (3) In all cases recovery should be effected preferably by distraint of the defaulter's moveable property [sec. 150 (c) of the Code].
- (4) Lands already forfeited might be restored at any time during the current revenue year if the arrears were tendered.

He added that there need be no pressure on those who were really unable to pay, and that such arrears might be carried on to the next year's accounts.

5. The next day (April 25) the Bombay Government issued its second Press Note, pointing out that the bulk of the revenue had already been paid in, and that the outstandings were mainly due from those who could afford to pay, but had been induced to refuse payment, and stating that in these circumstances Government could not comply with Mr. Gandhi's request for an independent enquiry. They emphasised the fact that suspensions and remissions cannot be claimed as a matter of right, but are a measure of relief granted as matter of grace; and announced that all their estimates and calculations on which the revenue demand was based were open to inspection.

6. The Commissioner's orders were duly passed on by the Collector to the mamlatdars, but the latter appear to have had some hesitation in forbearing to put pressure on those who were really unable to pay; with the result that the Collector repeated the order on May 22, 1918, by which time the revenue realised had risen to 92 per cent. of the total demand. This reminder had its effect, and the mamlatdar of Nadiad after an interview with Mr. Gandhi issued an order on June 3, to the village officials of Uttersarda directing them to inform the villagers that such of them as were able to pay should do so without delay, but that "against those who are really poor, and whose poverty is proved, no coercive measures will be used, and their land revenue will be suspended till next year." The order was read out to the villagers and Mr. Gandhi then strongly urged the people to pay up. After this the agitation rapidly came to an end. There was still some correspondence between the Collector to Mr. Gandhi regarding the reformer's action in levying "*chothai*" fine in the case of persons against whom forfeiture orders had already been passed; and regarding the question whether the arrears of persons finally declared to be too poor to pay during that year should be classed as "suspensions" or as "unauthorised arrears". On the latter point the Collector considered that there had been a genuine misunderstanding, and on his recommendation Government reluctantly agreed to concede the point and to class the arrears as suspensions. By the end of July collections had risen to 98.5 per cent. of the total demand.

7. To appreciate the question of justification for this agitation it is necessary to bear in mind that under British rule in India the system of fixed assessments over a series of years was deliberately adopted. The principle underlying these periodical assessments is that they have "been fixed so as to allow, so far as the assessing officers could judge, for ordinary variations of season during the period of settlement, and the demand ought in theory to be paid in bad years as well as in good" (para. 5 of the Government of India, Revenue and Agricultural Department Resolution of March 25, 1905). While, therefore, recognising that in practice some elasticity in collection is required, the Government of India remarked that it was no part of their intentions that the system to which they gave their adherence in this resolution should authorise anything in the shape of laxity or carelessness in the collection of the fixed demand, nor did they contemplate that the system of suspensions and remissions should form, as had been proposed, "a regular feature of the revenue administration." It was to be recognised as a measure, *purely of grace and not of right*, to be exercised only in exceptional cases of calamity so severe as to justify and necessitate a relaxation of the settlement contract. They added that it was "wholesome and legitimate to expect him (the cultivator) to take the bad with the good in years of ordinary fluctuation." The above principles are repeated in the preface to the Bombay Rules. Rule 1 of these rules authorises (it does not, be it noted, direct) the Collector, when he has ascertained by local enquiries that, owing to a partial or total failure or destruction of the crops throughout any tract on account of drought or any other cause, it will be necessary to suspend the collection of revenue, to grant suspensions according to the scale indicated above (para. 1) to all occupants alike without enquiry into the circumstances of individuals. The use to which these scales should be put is laid down in para. 10 of the Government of India's Resolution of March 25, 1905. They deprecated anything in the shape of servile adherence to formula; but were of opinion that a standard scale of relief on an arithmetical basis should be prescribed for general guidance. The agitation in Kaira ignored these principles. Mr. Gandhi, it is true, early in May admitted that "suspension is granted as a matter of grace and not as a matter of right enforceable by law"; but he shows no appreciation of the fact that this essential distinction is due, not to any arbitrary refusal on the part of Government to concede the legal right, but to the simple fact that under the present system of fixed assessments the assessee in accepting the periodical settlement for a term of years undertakes to pay that assessment in bad years no less than in good. Thus he actually states the case for the agitation as follows:—"where there are, in matters of administrative orders, sharp differences of opinion between local officials and the ryots, the points of difference are and ought to be referred to an impartial committee of enquiry". He even goes so far as to say that it was the Commissioner's duty to please the people when he saw that they differed from him regarding the extent of relief required. This seems essentially a denial of his former admission that suspensions are a matter of grace. Again Mr. Gandhi is wrong in insisting on a rigid adherence to the scale of suspensions prescribed in the rules. In his letter of March 29, 1918 he writes—"Under the Revenue rules, if the crops are under four annas (i.e., one-third of a normal crop) the cultivators are entitled to full suspensions of the revenue assessment for the year." They are not "entitled to" anything; and the scale appealed to is not an absolute formula but a general guide to the Collector. As the Government of India said in para. 9 of their Resolution of March 25, 1905, "It does not necessarily follow that the failure of more than half a crop will always justify relief, as much depends upon the nature of the harvests immediately preceding and upon the importance of the harvest in question"—another point which the agitation consistently ignored. Apart from the question whether the assessee in certain circumstances have a claim to suspension, the Government could not accept the further contention of the agitators that the assessee has a right to challenge the Collector's estimate of crop failures on which his orders for suspensions are passed, and either to have those orders modified at their dictation or to demand an independent enquiry. The responsibility for these crop estimates must rest with the Collector. As a matter of fact, there is no reason to suppose that the estimates in Kaira were,

so inefficiently made as to justify organised protest, and a contrary inference may reasonably be drawn from the progress of actual collections during the revenue year and even while the passive resistance movement was at its height. The figures have been given already in paras. 4 and 6 above.

8. It remains to consider how far the agitation was in fact successful. From the fact that the Gujrat Sabha found it necessary at its meeting of March 21, 1918 to repeat in the form of a resolution the advice it had already issued in circular form at the beginning of January, it may be inferred that in its earlier stages, at any rate prior to Mr. Gandhi's intervention, the agitation was not very effectual. Moreover, it was not until after His Excellency the Viceroy had issued his appeal to sink domestic differences that the local Government and its local officers relaxed in any way the firm attitude hitherto adopted by them. The extent of this relaxation is indicated in para. 4 above. In the main it consisted of the substitution of the milder for the more rigorous of the recognised methods of revenue recovery and to this extent involved no surrender to Mr. Gandhi's demands. The Commissioner's direction that no pressure should be put on those who were really unable to pay, while not covered by any specific provision in the rules for suspension in times of general calamity, was in accordance with the revenue practice of the presidency, and it was only the subsequent conversion of these outstandings from "unauthorised arrears" to "suspension" (*vide* para. 6 above) which involved any unusual concession. This concession, however, formed only a small part of what the agitation was avowedly designed to obtain. Its main object was that *either* an independent enquiry into the extent of crop failure should be instituted, *or* Government should accept the ryots' own estimate of their crops as the basis on which suspensions should be granted. Neither of these demands was conceded. Even in the individual cases to which the above concession was extended, it was the Government officials alone who decided the question whether an assessee was or was not, too poor to pay; and Mr. Gandhi agreed to abandon the agitation and took an active part to secure payment by the recusant minority before any steps had been taken to determine who were too poor to pay. It is true that even here Mr. Gandhi appears at first to have been under a misapprehension, as in his speech at Uttersarda on June 3, which inaugurated the abandonment of the agitation, he is reported to have said to the villagers that "the Government had left it to them to decide who should not pay." But there was no authority for this statement, and the Commissioner on July 1, 1918 stated definitely that "those who will receive the concession in question are the poorest holders, and they have been selected by the Collector and his subordinate officers and not by any extraneous agency."

9. The above facts point to the conclusion that there was no valid ground for the Kaira agitation, and that it did not succeed in its object.

APPENDIX III.

Further note on the Champaran case.

The two main questions which the Committee was appointed to investigate were the system under which indigo was grown in Champaran and the arrangements made between planters and the raiyats for the abandonment of that cultivation in certain areas. It was the latter question which was mainly responsible for the agitation which led to the appointment of the Committee. The arrangements made were of two kinds. In those villages of which the factories enjoyed permanent leases the rents were enhanced by agreement between the landlord and the tenants at the time indigo cultivation was given up. This arrangement was known as *sharabeshi*. In villages which were on temporary lease, on the other hand, the factories commonly accepted a lump sum payment known as *tauan* in return for which they granted a final release from any obligation to grow indigo. Before the Committee could advise Government as to the attitude it should assume towards these arrangements it had to consider the following questions:—

- (a) Was the obligation of the raiyat to grow indigo for the factory a purely contractual obligation arising out of the document known as the indigo *satta*, or was the obligation one of the conditions on which the raiyat held his land?
- (b) In the latter case did the rights of the landlord belong to the indigo planter or to the superior landlord (*i.e.*, Bettiah Estate), and in this matter what was the distinction between villages held on permanent lease and those held on temporary lease?
- (c) Were the enhancements of rent or the lump sum payments fair and reasonable on the assumption—
 - (i) that the obligation was purely a contractual one, or
 - (ii) that it was a condition on which the raiyat held his land,
- (d) If the obligation were purely a matter of contract was the contract legal having regard to the provisions of section 178 (3) (b) of the Bengal Tenancy Act?

On the answer to these questions the decisions of Government must necessarily depend, and without the detailed and searching enquiries of the settlement officer and the very valuable information which he was able to place at the disposal of the Committee, it would have been impossible for that body to make recommendations which Government could readily accept. In these matters the evidence of the Settlement Officer was of vital and even of decisive importance.

2. The defects which the Committee found in the so called *tinkathia* system of growing indigo which prevailed throughout Champaran were as follows:—

- (1) The price paid by the factory was fixed according to the area and not according to the outturn; with the result—
 - (a) that there was a temptation for the planter to select the best lands for indigo, and
 - (b) that the raiyat had to be stimulated to exertion by the attentions of a large number of low paid factory subordinates.
- (2) When the prices of agricultural produce rose it was difficult for the raiyat to obtain a corresponding increase in the price of his indigo, and in fact periods of friction and disturbance had on each occasion (with one exception) preceded an increase in price.
- (3) The system was generally unpopular with the raiyats who welcomed the prospect of release from growing indigo under these conditions.

These defects, the Committee held, were sufficiently formidable to justify the summary discontinuance of the system.

3. The fact that the *tinkathia* system was liable to abuse was not a new discovery made by the Committee. The attention of the Bengal Government had been called to the point in 1908 and they had given it much anxious consideration. It was common knowledge also that, at intervals of twenty or thirty years, there had been outbreaks of popular discontent regarding the price paid for the crop. But the fact that a system is liable to be abused and is sometimes abused does not of itself justify its sudden termination. Government has to consider the system as a whole and the good points as well as the bad. In their Report the Committee laid emphasis on the dangers and defects which in their opinion rendered it advisable to bring the *tinkathia* system to an end, but naturally they did not lay equal stress on the advantages which did much to counterbalance these defects. Amongst these may be mentioned the fact that the raiyat received an advance in cash or by credit in his rent account at a season of the year when he needed money, and that he was protected against the loss which would be occasioned by a complete failure of the crop. But the most important point is that, in villages where indigo was grown, the rents over a long period of years were either not enhanced at all or only to a very limited extent. These were matters which Government was bound to take into account, and however unpopular indigo cultivation in Champaran may have been, it is more than doubtful whether the raiyat would have accepted release had the price of freedom been the enhancement of his rent to anything approaching the average level of the rents paid in Indian estates in the adjoining districts. The resolute opposition shown to the collection of the very moderate enhancements finally settled in accordance with the Committee's recommendations strongly supports a different conclusion.

4. But even if Government had decided that it was desirable to abolish the *tinkathia* system, it would still have had to consider what measures were necessary in order to secure that result. In particular it was faced by the problem whether legislation was required and if so legislation of what kind. The planters were not bound to make radical changes in their system of indigo cultivation at the mere bidding of the executive Government, and before legislation could be undertaken it was an indispensable preliminary that the right of the parties should be clearly ascertained. If it were found that the obligation to grow indigo rested on contract only, then it would probably suffice to make certain forms* of contract unenforceable at law. If however it were found that the raiyat held his land on the condition that he grew indigo for the factory the case would at once assume a much more serious aspect. The proviso to section 29 of the Bengal Tenancy Act clearly recognizes that a tenant may hold his land subject to a condition of this kind and it exempts from the usual restrictions on enhancement by contract enhancements taken in exchange for release from the obligation to grow a particular crop. To deprive landlords without compensation of an acknowledged legal right would be legislation of a very unusual kind, needing special justification. In this matter also, therefore, Government could not wisely take action until the Settlement Officer had investigated the nature of the indigo obligation and had presented his conclusion. Further it is to be remembered that after 1914 owing to the fact that the factories had surrendered their indigo rights in a very large number of villages, the *tinkathia* system affected a far smaller area in the district than it had done in earlier years.

5. It came to the notice of the Committee during their enquiries that three factories in the district had violated the bye-law of the Planters' Association which forbids the growing of crops other than indigo on *Satta* condition. Only a few villages, however, were affected and the matter was not made a subject of special complaint by the raiyats.

* The validity of the indigo contract has been challenged on the ground that it violated the provision of section 178 (3) (b) of the Bengal Tenancy Act, but up to the time the Committee was appointed all parties had proceeded on the assumption that it was a valid contract, and although many civil suits were brought annually to enforce such contracts, the defence that the contract was invalid was never raised. The Committee, it is believed, considered the question but they expressed no definite opinion in their Report.

6. Another very important matter discussed by the Committee was the levy of unlawful cesses by zamindars and lease holders in the north-west of the district. Such exactions are unfortunately not confined to one district, but so far as Champaran was concerned the Committee found that the measures already taken under the orders of Government in the previous year had been effective in stopping the abuse. It is to be noted moreover that the special legislation recommended by the Committee with the object of strengthening the law on the subject was rejected in the following year by the local legislative council, all the unofficial members with one exception voting against it.

7. The Committee also investigated the wages paid for labour and the rates paid for the hire of carts. In this matter the Committee's Report did not disclose any grave abuse, and their recommendations were confined to the framing of a minimum tariff for wages based on local market rates, and the restriction of the periods for which contracts to supply carts in return for an advance might be made.

8. The Committee in the course of their investigations had their attention drawn to various minor matters in which grievances were alleged and have mentioned them in their report. A number of these were neither peculiar to Champaran nor to the Indigo factories, and indeed the factories were only concerned with many of them as the local representatives of the superior landlord (i.e. the Bettiah Estate). Amongst these may be mentioned the rights claimed by zamindars to levy fees on transfers of land, to charge fees for the right to sell kerosine oil, to sell the hides of dead cattle and appropriate the proceeds, to the possession of the timber of trees grown on raiyats' holding and to charge fees for grazing cattle on the waste land of the village. Some of these matters were outside the settlement officer's sphere, but others (e.g., fees on transfers of land, grazing rights and the right to trees) were obviously matters for his decision in the first instance. Apart from that, however, none of these questions had been brought prominently to the notice of Government before the appointment of the Committee, and it is to be feared that an enquiry in any district of the Province would disclose many grievances at least as serious suffered by the raiyats at the hands of their zamindars. In several cases both the Committee and the settlement officer found that the landlord was acting within his legal rights, and in such cases the recommendation made by the Committee was based purely on a consideration of what a well intentioned landlord could reasonably be expected to do for the benefit of his tenantry. This applies both to the rights in trees and to the grazing on waste lands.

Appendix IV.

No. 5447, dated Bombay Castle, the 28th May 1919.

From—P. J. MEAD, Esq., C.I.E., I.C.S., Chief Secretary to the Government of Bombay,

To—The Secretary to the Government of India, Home Department.

I am directed to supply the following brief statement as regards the facts referred to in Sir C. Sankaran Nair's Appendix A to his minute of dissent dated March 5, 1919, which is attached to the Government of India's despatch of the same date, as regards what he calls the Kaira case. The Governor in Council considers that the account given by Sir C. Sankaran Nair is so misleading that some authoritative correction of the views therein conveyed is essential before communication to the Secretary of State or to Parliament.

2. I am to say that the Governor in Council fully realises the difficulties under which any critic of our land revenue administration must labour when dealing with so complex and specialised a subject, and many of Sir C. Sankaran Nair's misconceptions of fact and policy are doubtless due to his imperfect acquaintance with the practical details of land revenue administration. It is only necessary in this connection to refer to his comments on the thoroughly impracticable resolution in the Legislative Council that at a date when all early crops had been harvested and removed, a solution might be found in the valuation of the outturn of all crops over 1595 square miles of country by the expert agency of the Agricultural Department, and his acceptance of Mr. Gandhi's testimony at the same stage, based on the mere statements of interested cultivators.

3. Sir C. Sankaran Nair's appreciation of the past economic situation of the tract at the beginning of his minute cannot, I am to say, be accepted. Five good seasons out of the seven preceding years cannot seriously be described as a period of severe agricultural distress. Further the brief remark that 'crops had failed' in a year when later crops, and particularly rice, were good over the greater part of the district, conveys a wholly inaccurate impression of the facts. But passing on from this unfortunate setting of the stage to the actual drama as presented below, the Governor in Council must correct the impression given that the political agitation referred to had any considerable effect on the measures of relief actually sanctioned by the revenue officers, or that the ultimate result was to leave the decision as regards payment of the Government demand to the rayats themselves. Once the demand is fixed, after a rough and necessarily imperfect estimate of the harvest by broad tracts, collections are made by the subordinate revenue staff, who are *always* enjoined to exercise discretion in the work of actual collection in hard cases, such as arise in every area.

In such cases arrears are not suspended but remain uncollected, and are classed as unauthorised arrears. In the case in point no orders issued in April sanctioning further suspensions, but revenue officers were reminded of the long standing instructions of Government to exercise the usual discretion in collecting the Government demand already fixed. Mr. Gandhi learned in June that such warnings had issued, and, as the no rent campaign had failed, he took advantage of this so-called concession to declare that agitation might now cease and all who could should pay. In all Rs. 15,000 were thus postponed on account of genuine poverty as against Rs. 22,03,700 collected. Subsequently it was found that some subordinate revenue officers had by mistake declared this small fraction of the demand as suspensions, and this Government in view of the mistake made, allowed them to be so shown in the accounts. It must be clearly understood that, so far as collections in the year in question were affected—the decision made no difference at all to the rayat. In no case would the collection of this small sum have been enforced. With the exception of these few hard cases, collections were made according to the demand fixed and at the end of the year only Rs. 24,816 remained outstanding, mainly owing to a temporary strike of village accountants. The suggestion that rayats were allowed to decide for themselves whether they should pay or not is purely fanciful.

4. To sum up the Governor in Council considers that it is essential to explain that Sir C. Sankaran Nair's minute has been written under a misconception of the facts and of the policy of Government. The season in question and previous economic situation of the tract have been inaccurately described, and the statement that as a result of the campaign the rayats were left to decide who could and who could not pay the Government demand is wholly inaccurate. Suspensions amounted to Rs. 2,13,000, collections to 22 lakhs and unauthorised arrears to under Rs. 25,000. Rs. 15,000 were not collected in the exercise of 'the revenue officers' usual discretion, and were subsequently included in suspensions as they had by a mistake been so declared. With this small exception no additional suspensions were declared after March as stated. The fundamental misconception underlying Sir C. Sankaran Nair's presentation of the case is that an individual rayat has a claim to suspension if his particular crop fails. That is not the case. Individual inquiries are wholly in practicable over wide areas and are therefore rightly forbidden. The harvest is appraised, by broad areas only, with a view to make Government's demand more elastic, and the demands once fixed must be collected, subject to the usual discretion to be exercised in the use of coercive processes.

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