GOVERNMENT OF MADRAS

MEMORANDUM AND SUPPLEMENTARY NOTE

SUBMITTED TO THE

INDIAN STATUTORY COMMISSION

MADRAS

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MEMORANDUM.

To enable the proposals put forward in this memorandum to be understood aright, it is necessary briefly to review the present system of dyarchy and its results.

2. By the Government of India Act, 1919, a number of important departments were handed over to the complete control of ministers. These last were to be chosen from the non-official members of the Legislative Council and were to depend for their continuance in office on securing and retaining sufficient support there. Various safeguards were inserted but the underlying assumption was that these were to be put into operation only when grave reasons of state intervened. Other important subjects were retained under the control of the Governor in Council and given the title 'reserved.' The theory of dyarchy required that the ministers on the transferred side should experience the full force of popular currents in a fully elective chamber while the other subjects were supposed to be made independent of such popular influences in fact as well as in name. But so far as legislation and the provision of funds were concerned the Executive Council was made as dependent on the legislative body as the ministers were. On the other hand, far from the ministers being dependent on an elective body, they could within limits remain in office irrespective of whether they commanded a majority of elected members. The official block and the nominated members almost inevitably constituted an important supporting element, for the former could hardly do other than support proposals of the Government they served; while the latter *ex hypothesi* were men likely to support constitutional government and to assist in working the reforms. More than once has a Madras ministry depended or existed on the support of these two elements. In other words, neither side of dyarchy was carried out logically: subjects were not in reality either 'reserved' or 'transferred'. Certain emergency powers conferred on the Governor in legislation and finance provided it is true a certain cover for the Executive Council but there again the accepted convention was that the Governor should put forth these powers only when their exercise was essential to the discharge by the Governor in Council of his responsibilities to Parliament,

3. Thus we have ministries not wholly dependent on an elective council and Executive Councillors largely dependent on it. In every council a certain number of members honestly wished to work the reforms and these were not likely to exceed reasonable criticism of ministers however much their views might differ. The uncertainties and expense of elections too and the possibility that a less acceptable ministry might succeed had a definite restraining effect even on professed obstructionists whose single principle was to destroy the reforms. From these considerations every ministry benefited. Not so the Executive Council. Where reserved subjects were concerned the Legislative Council had no responsibility. It knew of the emergency powers in reserve and that it could give unrestrained vent to demand or criticism without fear of consequences. Members with an eye to popularity in constituencies or mention in the press could safely outdo one another in declamation or denunciation and avoid the odium of essential but unpopular legislation or grants. This need not be attributed to any idiosyncrasy of Madras politicians: such a system as that followed was bound to produce these effects wherever it was tried. What training in responsibility such a system could give is difficult to see. Still harder is it to see how it could have failed to develop an attitude of irresponsibility among M.L.C's. or to deepen the impression of hollowness and unreality that lay over the reforms.

4. The Madras Government therefore consider that further reforms should introduce real responsibility. It might be argued that this to a great measure might be attained, while retaining the principle of dyarchy, by amendments calculated to enforce real responsibility in regard to transferred subjects and freeing reserved subjects from irresponsible criticism. But there are two fatal objections to that course. First, it is patent that the temper of vocal India will no longer be in any way satisfied by the half-measure which is all that even a strictly logical dyarchy can fairly be termed. Next, reserved subjects and the irremovable officers responsible for them have been the favourite political target for years: they cannot now be removed from reach and kept secluded for a further term. No written word can restore vitality to a form of government which has been at bay for a decade and was deliberately placed in that predicament. Its agents have steadily diminished in numbers and some of the loss has been by the deliberate abandonment by officers, not the least able or courageous, of positions they felt they could no longer usefully fill.

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5. The present system therefore not only wholly fails to satisfy Indian sentiment, but is rapidly becoming unworkable. Dyarchy is not now practical politics. The ground is cleared therefore for consideration of what is to be done. For this purpose it is necessary to consider our goal. What is the ultimate form of government in India to be? The answer is conditioned and practically determined by the existence of the Indian States. These units do not differ in population elements from the areas of British India which they adjoin. Their inhabitants are Hindus and Moslems, Brahmans and non-Brahmans, Christians and aborigines, differing in no wise from their fellow castemen or sectaries across the border. The boundaries between these states and adjoining British India are almost invariably purely arbitrary, corresponding to no natural feature or division. Their origin was in many cases as fortuitous as their boundaries and the whim of a chieftain or a family quarrel may have determined often whether one tract would become British territory while land that marched with it fell into a state. Nevertheless, these states are definite political units, many of them much older than a good deal of British India. The form of Indian polity must be one which these states can enter freely, for a polity which excluded them would be a farce.

6. It follows therefore that the objective should be federation. If the Indian States are to enter a federation, it is probable that they will do so only if the powers of the Central Government are carefully defined and limited and all residual powers are left to the component states.

7. At this point we may refer to the question of the rearrangement of the provinces of India on a linguistic basis. This idea has much theoretically to commend it. But the practical difficulties seem to be conclusively against any attempt now to redivide British India into linguistic units. For an efficient federation of the type contemplated an essential condition is the existence in the components of a marked state consciousness. This state consciousness does not exist in the language areas. These areas have never been distinct states within the history of India. Were new Tamil, Andhra, Kerala and Karnataka provinces to be carved out of this presidency in obedience to this theory, a complete reorganization of the administrative machinery would be necessary. Villages, towns and even districts would have to forget old associations and orient themselves afresh.

Further, apart from such obvious defects as the multiplication of departments to serve functions now performed throughout the presidency by one, it is likely that serious difficulties of personnel would have to be met. If we turn to political considerations the difficulties are even greater. It has already been pointed out that the separation between British Indian territory and that of the various Indian States follows neither nationality, language nor geography. If we admit the linguistic province theory, we raise inevitably the question of the separate existence of the Indian States as they are at present. For example, a Kanarese province that lacked Mysore would be a jest, but if the theory were to be accepted would not the tendency grow up in British Kanara to look on Mysore as Karnataka Irredenta? Such problems abound.

8. The Madras Government consider therefore that the problem of what should be the immediate step forward in political advance should not be hampered with proposals for the rearrangement and re-grouping of existing provinces. The immediate need is to develop responsible self-government in the provinces to enable them to take their place in due course in a Federated India. Provision may be made for division or re-grouping of provinces on linguistic lines should such a demand be made by the self-governing provinces concerned, but the present problem should not be made more complex by such an attempt now.

9. In setting out their proposals for the development of self-government in Madras, the Madras Government do not wish to be understood to be recommending the adoption of their proposals in all the provinces of British India. They consider that there should be no attempt to impose uniformity of advance : and they have not the knowledge or the desire to indicate to what degrees their proposals for Madras are applicable elsewhere.

10. For Madras then, the proposal is that the Government should vest in a Governor appointed by the Crown, a ministry of eight, and a single legislative chamber. They do not advocate a second chamber as there are no elements or interests which do not or would not contribute to a single house and from which a second or revising chamber could be formed.

11. *The Legislative Council.*—As all provincial subjects will be transferred, there will be no place for officials in the Council. Their presence would act as an irritant to the elected benches and probably tend to provoke in them

irresponsibility in speech and vote. No Legislative Council in a self-governing country can have permanent officials as members. Allied considerations point to the elimination of the nominated elements also. The Madras Government propose nevertheless that some seats in the single house should be filled by this means because they find it impossible otherwise to provide for the representation of certain interests which ought to figure there. These interests are those of depressed classes and the backward tracts. Regarding the elected portion of the house the first question is as to the need for separate electorates. The present separate electorates are for—

(1) Muhammadans.
(2) Indian Christians.
(3) Europeans.
(4) Anglo-Indians.
(5) Landholders.
(6) Trade and Commerce.
(7) Planting industry.
(8) University.

12. As regards separate Muhammadan representation theory would say that such separate representation should be abolished, that it is contrary to the true spirit of representative institutions, that Muhammadans should rely on securing political influence by putting up candidates acceptable to a general electorate or by using their voting power to ensure the return of candidates drawn from other communities but acceptable to Muhammadans. But the question confronting us is not one of abstract theory. We have to devise a legislature which will be accepted by all communities as giving them a fair voice in all matters affecting their interests, and it would be folly to suppose that the Muhammadan community would accept admission to the electorates but exclusion from the legislature as giving them such a voice, or that they would accept any elected member drawn from other communities as either able to represent their interests or to be trusted to do so where a clash of interests arose. It may be urged that there is no reason why Muhammadans should not be returned from general electorates. It is possible that one or two might secure election but that will be merely as hangers on of some political party dominated by Hindu members whose object is not to ensure Muhammadan representation but to use the Muhammadan vote to secure an addition to their own voting strength. Further it will only be in rare cases that party leaders will consider it worth while to risk the alienation of a considerable body of Hindu voters and the setting up of rival Hindu candidates in order to secure the support of an undetermined fraction of the

Muhammadan vote with the similar risk that the discontended Muhammadans or those who did not owe any party allegiance to them would set up an independent candidate of their own. So far from conditions being more favourable for Muhammadans even in this presidency merging their separate interests in those of the general community they are much less favourable. Even assuming that manipulation could produce plausible evidence that political leaders of either communities had arrived at an agreement to merge separate interests how long would such an agreement stand the hard test of its results? It is unnecessary at this point to consider whether and to what extent the legislature should be enlarged. But let us suppose a legislature in which as a result of general electorates Muhammadan representation was reduced to three or four. The Muhammadans would then feel that they had sold their birthright for a mess of pottage, and a community whose political importance ought not to be measured by its voting strength would be thrown into a violent antagonism to a constitution in which they found they could play no real part. The consequences might be most grave and so far as Malabar is concerned might have disastrous effects on the numerous and homogeneous Mappilla population. It may be urged that constituencies could be so arranged that Muhammadans will have fair opportunities of returning Muhammadan representatives. Except perhaps in Malabar and in one urban constituency no constituency could be framed with any reasonable certainty that the desired result would be achieved. Further the suggestion of such arrangements is an admission that the Muhammadans must be granted not only indirect but direct influence upon and a direct share in the composition of the legislature. The only method by which that can be ensured is through separate electorates.

13. The next question that arises is whether separate representation should be continued in the case of the Indian Christian community. At present five separate territorial constituencies are provided. It is true that in their relations with other communities the Indian Christian population do not represent a political problem of importance anything like such as arises in connexion with the Muhammadan community. Indian Christians have attained a high average level of education. They are not inadequately represented in the Public Services, and with a few exceptions their representatives in the Legislative Council have acquitted themselves well. They are keen and vigorous, and being

largely autonomous in their religious and social concerns have much experience in affairs. It might be that they could hold their own even if merged in the general electorate. It is true that one or two of their representatives support the view that they should forego separate representation and depend on their ability in some cases to secure candidates belonging to their own community. So far as can be seen, however, these views do not commend themselves to the community as a whole, and the one essential is that any rearrangement as regards the representation and the franchise should secure the greatest possible degree of acquiescence. Having granted separate representation to Muhammadans, it would be inconsistent to deprive the Indian Christian community of separate representation unless there is unequivocal evidence that that commends itself to a substantial majority. Their voting strength if divided up among a large number of general constituencies would in most cases be almost negligible. It is doubtful if temporary reaction against excessive communalism would survive what might prove to be total and permanent exclusion from the legislature. If, however, submersion in a general electorate were proved to be in accordance with the general wish there is no reason why effect should not be given to it, and an advance thus made towards the elimination of separate representation.

14. The case of two other small but important sections of the Christian community—European and Anglo-Indian—stands on quite a different footing. Short of separate representation they could have no influence either on the electorate or on the legislature. Their representation is confined in each case to one seat and it is most undesirable that such little influence as this gives them should be withdrawn.

15. The next interest accorded separate representation is that of the landholders for whom six constituencies are provided. It must be remembered that one-third of the land in the presidency is held in the form of large estates under permanent settlement sanads, inams, or similar tenures, and that from time to time important problems arise as regards the relations of the proprietors to their tenants and to local self-government, and that by the action of the Legislative Council the incident of impartibility is being attached to an increasing number of these estates. On all these grounds it is important that these interests should receive direct representation as otherwise it would to all intents and purposes be

however, these classes must continue to depend on nomination to secure them adequate representation. It would be futile to attempt this by merging them in the general Hindu electorates. No practical extension of electorates could either confer franchise on anything but very small sections of the depressed classes or give them the slightest hope of securing the return of their candidates to the legislature. They would never in any case consent to what means for them political annihilation. Any statements to the contrary may be safely ignored. The object must be to frame a constitution in which these communities will find a place and a voice by direct representation however provided.

21. We now come to the main body of those who follow the Hindu faith. And here exist two distinct lines of cleavage. There is the antagonism between the Brahman community and the mass of the non-Brahman communities. They are both combined in the general electorates, but by the system of reserved seats the non-Brahmans are assured of twenty-eight representatives. The result of the last three elections has shown that such a device is quite unnecessary. The vast majority of Hindu voters belong to the great non-Brahman castes. Even without such a device the number of non-Brahman members of the Council would not fall short of such a minimum, and if in future a constituency should prefer to be represented by a Brahman it must be regarded as a deliberate choice to negative which there could be no justification. The reservation of the seats may therefore disappear, and, with it, plural constituencies.

22. In the opinion of the Madras Government the time has not come for any extension of the franchise. The powers conferred on the people at present demand an electorate that is capable of understanding the value and use of the vote. If further powers are to be given and the province made truly self-governing, this necessity becomes even greater. There has been since the advent of the Reforms no such change in the economic or educational condition of the people as would render any lowering of the franchise either desirable or necessary. The question is to what extent the political digestion of the presidency has assimilated the immense extension of the franchise offered to it in 1920. Roughly speaking, every holder or lease-holder of land paying Rs. 10, or 15 shillings, as assessment or rent secured the franchise as did those residing in municipalities included in rural constituencies who paid a total of Rs. 3 a year under the main municipal taxes. Even for India that is a low qualification, so far as such facts are

indications of the possession of a certain amount of property or stake in the country although the pitch of municipal taxation varies from town to town and although the effect of assessment on rent qualification must be to increase the number of voters where tenants are numerous and to decrease the number in districts where cultivating ryots predominate. But no property qualification that could be devised would remedy these comparatively unimportant inequalities without creating others in their place. There have been certain fluctuations in the number on the electoral rolls partly due to the more accurate registering of women voters, but the registers in each district probably now represent as close an approximation to facts as is likely to be achieved. The elections of 1926 represented the maximum effort put forward by all parties in contested constituencies, and roughly six hundred thousand voters accorded their votes out of nearly one million four hundred thousand on the register. The general impression is that this figure is too flattering as an indication of the number of voters who genuinely understand and exercise their rights. It would, by tinkering with the franchise qualifications, be possible to add another million or so of voters to the roll, but as it seems clear that it will take at least ten years before the education of the *existing* electorate in its responsibilities and privileges will be complete a large addition to the electorate would simply swamp the existing electorates with new elements which would fall an easy prey to organized corruption on a large scale.

23. The present Legislative Council numbers 132 made as follows :—

Ex-officio.

Members of the Executive Council	4

Elected.

General constituencies—Urban	... ...	9
Do. Rural	... ...	56
Muhammadan—Urban	... ...	2
Do. Rural	... ...	11
Indian Christians	... ...	5
European	... ...	1
Anglo-Indian	... ...	1
Landholders	... ...	6
University	... ...	1
Planters	... ...	1
Trade and Commerce	... ...	5
Total elected	...	98

Nominated.

Official	7
Depressed classes	10
Backward tracts	1
Others	12
Total nominated ...	30
Grand total ...	132

The elimination of Members of Council (4), officials (7) and nominated members other than those representatives of the depressed classes and backward tracts (12) will reduce the number to 109. This Government would propose to raise the number of the proposed Council to 150 and to distribute the seats as follows :—

Nominated.

Depressed classes	12
Backward tracts	1
Total nominated ...	13

Elected.

General constituencies—Urban	9
Do. Rural	91
Muhammadan—Urban	2
Do. Rural	13
Indian Christian	6
European	1
Anglo-Indian	1
Landholders	7
University	1
Planters	1
Trade and Commerce	5
Total elected ...	137
Grand total ...	150

In distributing the general constituencies the Government would allot a seat to every 5,000 urban and 15,000 rural voters approximately.

24. *The Ministry.*—Of the eight ministers who with the Governor and the one legislative house are to constitute the Government of Madras, one should be the leader of the

largest party in the house. He, as Chief Minister, should be invited by the Governor to form a government and the remaining seven ministers will be appointed by the Governor on his recommendation to form a cabinet with joint responsibility. In other words, the British parliamentary system should be followed. It may be admitted at once that a reputable party system does not exist in Madras in any degree comparable with English conditions where indeed the form of government really depends on the existence of established party politics. The tendency in Madras has been for members to represent interests rather than causes and divisions along interest lines hardly conduce to the development of stable parties. Nevertheless, parties of a kind have always existed in Madras politics since the Reforms and at times have exhibited considerable cohesion and discipline. With the passing of dyarchy and the removal of that inviting target, the reserved half of government and its 'reserved' subjects, with the consequence that words and votes will be matters of much more moment, it may be that parties will begin to form round real differences of policy and that present dividing lines drawn by community or interest if not erased altogether will at least be considerably less prominent. In any case the experiment of choosing the ministry on the lines indicated is one which should be made. It is the British system on which India's parliamentary institutions have been modelled in the main and it is but logical that the responsible government to be set up in Madras should be chosen on the lines which the British system has evolved.*

25. The number eight, has been arrived at after consideration of the actual work involved and the probable outcome of the changes proposed.

The following would probably be a convenient distribution of portfolios :—

Revenue and Irrigation.

Education.

Administration of Justice including Jails.

Police.

Local Self-Government including Medical, and Public Health.

Agriculture, Co-operative Societies, Industries, Veterinary, Scientific departments and Forests.

* But see paragraph 26.

Finance with stamps.

No portfolio, except perhaps Excise, should go to the Chief Minister whose time will be fully occupied by other activities already indicated. The growth of prohibition agitation, to meet which would be a task for the joint government, might make it advisable for the Chief Minister to take Excise as the problems would be difficult and wide in application rather than mere matters of administrative detail. Eight ministers each on Rs. 4,000 per mensem, would involve, it may be noted, no greater financial burden than the present four members plus three ministers. It may well be, however, that eight ministers may in time, even soon, become insufficient. For example, if waterpower development takes the extension it is hoped, extra problems of policy and administration may well demand another responsible minister.

26. The above method of forming the ministry is that which the Madras Government as a whole put forward. Certain members of the Government are however impressed with the consideration that with political conditions as they are in Madras experience has shown that party government on the above lines is unable either to legislate or to administer with reasonable efficiency. Party ties are loose and frail and communal or personal antipathies and disagreements influence votes irrespective of the merits of the question at issue. To enable a ministry to function with reasonable efficiency they must be given some security of tenure. The alternative proposal has therefore been made that the ministers should be elected by the Legislative Council by the method of the single transferable vote and that they should then elect one of their number as Chief Minister: and that they should be irremovable from office for the term of the Council that elected them, save by the Governor on an address carried by a two-third majority of the Council present and voting. Provision should be made in this system for the automatic continuation of the status quo in cases when the Cabinet and the Legislative Council were unable to agree as to changes proposed by the former. In support of this scheme it is urged that the English party system has no necessary applicability to the Madras Presidency where society has for centuries been organized in watertight compartments by the caste system and where it is vain at present or for some time to come to expect that parties will have any other real foundation. To meet the admitted danger of instability and consequent impotence, the Madras Government propose that a vote of no-confidence against a ministry chosen on party lines as stated in paragraph 24 shall not be deemed to have been carried unless it is voted for by a majority of the total membership of the house. It must be admitted however that even security from votes of no-confidence will not help the ministers to carry proposals through the house which are dependent on majority votes, and therefore those who advocate the plan of election and fixed tenure do not consider that this provision will be sufficient to ensure progress and obliterate lines of communal cleavage that they consider the party system will be sure to deepen.

27. An official should be appointed as Secretary to the Cabinet. This officer will be under the control of the Chief Minister. From information given or requests made by ministers and their departments he will be responsible for drawing up the agenda, recording the Cabinet's decisions and sending them for execution to the departments concerned. It will be his function too to keep the Governor fully informed of the course of the business of Government or the stage of any particular question. Some such appointment is essential. The functions of a Cabinet Secretary are performed in part at present by the Chief Secretary. This position is not satisfactory. In former days the Chief Secretary was virtually ex-officio registrar of the Executive Council and that he should have been made in effect Secretary of the joint Cabinet under the first instalment of the reforms is typical of the temporising and transitional nature of these. With a unitary Government, wholly responsible to the legislative house, it is important that the Cabinet routine and administration as distinct from that of the various departments of Government should be directly under the control of the Chief Minister to a much greater degree than is possible under a system whereby a Secretary is taken from his other work to attend Cabinet meetings and act as recording officer of its decisions.

28. *Central and Provincial spheres.*—The Madras Government do not propose any material change in the division between the provincial and central spheres of government so far as the allocation of particular subjects is concerned. They have already indicated and repeat now that a change in attitude towards the general theory of allocation is essential. Provincial Governments have at present authority only over these subjects which have been specifically classified as provincial: all subjects not classed as provincial or central are the concern of the Central Government alone. The present allocation of subjects should be examined carefully

and only those in which provincial boundaries have obviously no place, such as the defence of India, relations with foreign and Indian States, railways, posts and telegraphs, currency and coinage, or where other considerations place it beyond doubt that only the Central Government can handle them properly, should be declared central. Where it is possible to break a central subject up into an essential central core and other elements not essentially central, the division should be made and only the core declared central.

29. *The Governor.*—The position and powers of the Governor are described in the pamphlet submitted to the Commission entitled "*The working of the system of government—the Executive Government*". Bearing in mind that the category of reserved provincial subjects disappears under the proposals made in the foregoing paragraph, the following are the further changes we consider will be required in consequence of those proposals. The distribution of portfolios should rest with the Chief Minister under the scheme this Government put forward : but the rules for the transaction of business (and amendments thereof) in other respects should, we consider, be prepared by the Cabinet for the Governor's approval and should become operative to the extent of such approval. Next, the Governor has at present statutorily an unlimited power of overruling any minister. Under the new constitution, this power, in our opinion, would be appropriately limited and defined as it now is, by section 50 (2) of the Government of India Act, in the cases of the present Executive Councillors. In regard to the Legislative Council, the Governor's power of authorizing expenditure in cases of emergency should continue, to secure the safety or tranquillity of the province, but not simply to carry on a department. In regard to the Provincial Public Services, a Local Services Commission is about to be set up under statutory sanction. This Commission will select, examine and recommend, but the power of actual appointment must necessarily remain with the Government. We consider that the Governor's concurrence shall be necessary (*a*) where ministers propose to make an appointment contrary to the recommendation of the Services Commission and also (*b*) in the case of certain high appointments to be specified, (e.g., heads of departments. Similarly, in disciplinary cases, where the ministers propose to take action without or contrary to the advice of the Services Commission, the concurrence of the Governor should be required. When agreement cannot be reached in any of the above cases the view of the Governor must prevail.

30. It is probable that under any system of allocation of subjects or revenues, the only suitable way of administering certain central subjects will be through the Provincial Governments or Governors as agents. Where as proposed in Madras the Ministers should be all elected members of the Legislative Council responsible thereto, the Governor alone can carry out such duties. To enable him to transact the business connected with central subjects which he is called on to discharge as such agent the Governor should be given a secretariat. This should be attached to him personally. Such a separation between the ordinary offices of the Provincial Government, engaged on provincial matters, and those occupied with business of the Central Government is necessary. The relations between the two Governments should be as precisely defined and limited as possible and no provincial secretariat should be asked to serve two masters.

31. *Control of Secretary of State and Government of India.*—The position and powers of the Secretary of State and Government of India in relation to Provincial Governments are set out in the pamphlet submitted to the Commission entitled "*The working of the system of Government—relations with the Government of India and the Secretary of State*". Broadly speaking the position is in theory that the Secretary of State and Government of India have unlimited powers of superintendence, direction and control, subject to delegations made. Bearing in mind, however, that the category of provincial reserved subjects is eliminated by the scheme submitted by this Government, the delegation of the powers of the Secretary of State and Government of India in the administrative sphere has been practically complete, save for the following reservations :—

(1) To safeguard the administration of central subjects ;

(2) to decide questions arising between two provinces in cases where the provinces concerned fail to arrive at an agreement ;

(3) to safeguard Imperial interests ;

(4) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire ; and

(5) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on the Secretary of State or the Secretary of State in Council,

under or in connexion with or for the purposes of the following provisions of the Government of India Act, namely, section 29 (*a*) (which deals with the appointment of the High Commissioner for India), section 30 (1) (*a*) (empowering local Governments to borrow), Part VII (*a*) (dealing with the Civil Services in India), or of any rules made by or with the sanction of the Secretary of State in Council.

It is clear to us that these reservations must remain. It would however be in consonance with the political advance we advocate, if the new Act recognized the authority of the Provincial Government in regard to all provincial subjects subject only to the above reservations and subject further to the power of His Majesty's Government through its agents, the Secretary of State or the Government of India, to annul these powers of the Provincial Government in the event of that Government being superseded in case of breakdown or inability to maintain law and order in the province or of financial insolvency.

32. In regard to legislation, the main limitations on the powers of the provincial legislatures are contained in section 80 (3) of the Government of India Act which requires the previous sanction of the Governor-General in the case

(1) of taxation other than that exempted by the Scheduled Taxes Rules,

(2) of matters which have been declared by the rules to be the concern of the Central Government or legislature, and

(3) of matters which by law or by statutory rules are made subject to previous sanction;

and under clause (4) no local legislature may make a law which affects an Act of Parliament. The Local Legislatures (Previous Sanction) Rules framed under this section contain a list of 68 Acts of general application which may not be amended without previous sanction of the Governor-General. Further, a bill passed by a Provincial Legislative Council does not become an Act until it has received the assent of the Governor [section 81 (1) and (2)] and an Act has no validity until it has received the assent of the Governor-General [section 81 (3)]. Under section 81-A (1) the Governor may not only assent to or withhold assent from a bill, or return it to the Council for reconsideration in whole or in part; he may also, and in the cases prescribed under rule 2 of the Reservation of Bills Rules he shall reserve the

bill for the consideration of the Governor-General. When a bill is so reserved, the Governor-General may either assent to or withhold his assent from it, or he may reserve it for the signification of His Majesty's pleasure; and in this case it has no validity until His Majesty in Council has signified his assent. Finally even when the Governor-General has assented to a bill, section 82 (1) empowers His Majesty in Council to disallow it. We consider these reservations must remain. The Governor-General has now laid it down as a rule of practice that his previous assent will not be withheld except in cases where the proposed bill trenches on the central sphere or where its discussion would in all reasonable probability lead to a disturbance of the public peace. Statutory expression should be given to these limitations.

33. Provincial autonomy in the administration of provincial subjects implies also complete control over the management of provincial financial resources, and the question arises whether this necessitates any revision of the financial relations between the Central and the Provincial Government. At present all provincial revenues are paid into the public account of which the Governor-General in Council is custodian, and credited to the Government of the province. Subject to his powers of delegation the Governor-General in Council prescribes the procedure regulating all accounts transactions. The Accountant-General, an officer of the Central Government, maintains the provincial accounts and also audits them. It might be argued that financial autonomy implies the separation of provincial accounts and audit from those of the Central Government. But the Madras Government do not hold this view and see no reason to press for the separation of provincial accounts and audit. An experiment in separating accounts which has been made in one province has not yet attained a stage at which it admits of automatic adoption by other provinces. Separation is bound to prove more expensive than the present system and apart from the fact that a provincial accounts and audit department could never be so efficient as one which can draw on an all-India cadre they regard it as inadvisable to complicate the task of Provincial Finance Ministers at the outset by forcing them to undertake the solution of this question also. There is further a considerable period in the financial year when the receipts of the Madras Government fall far short of their expenditure. If their ways and means were separated from those of the Government of India they would have to undertake a task

which has so far been entirely beyond the experience of the provincial Finance department and in attempting which they would have to work in co-operation with and rely on the guidance of the Central Government. But as a matter of fact it has not been through accounts and audit that any control over provincial expenditure has been exercised but through the controlling powers vested in the Government of India and the Secretary of State over Provincial Governments in respect of reserved subjects and the rules which require that in certain matters involving the expenditure of provincial funds Provincial Governments must receive higher sanction. As the rules now stand such higher sanction in respect of transferred subjects is required, so far as all provincial and subordinate services and special posts are concerned, only in cases where it is proposed to create a permanent special post on a maximum rate of pay exceeding Rs. 1,200 a month or a temporary post with a pay exceeding Rs. 4,000 a month or to extend beyond two years a temporary post or deputation with a pay exceeding Rs. 1,200 a month. There is no reason why these restrictions should remain in the case of special posts and with their removal, conditions of service, pay, allowances and pensions of posts will be entirely under the control of the Local Government and this will equally apply in the case of all or any departments that may be hereafter transferred. In so far as reserved provincial subjects are concerned, higher sanction is required in the case of the creation of new permanent or temporary posts in the All-India Services. If the All-India Services are to become a closed series the creation of new temporary or permanent posts in those services will not be possible and there is no reason why the powers of the Local Government to appoint a member of an All-India Service to a temporary post outside their cadres should be restricted. As the power of the Provincial Governments in respect of pensions or gratuities will be complete except in the case of All-India Services, which will be specially protected, there will be no longer any reason to demand that higher sanction should be accorded in respect of any pension or gratuity. The only important remaining restrictions now in force are in respect of capital expenditure upon irrigation and navigation works, including docks and harbours, and upon projects for drainage, embankment and water-storage and the utilization of water power. The first of the present restrictions applies where the project concerned materially affects the interests of more than one Local Government. In such cases the power to arbitrate

must rest with the Government of India or some higher authority and this is hardly correctly treated as a financial restriction. The other cases in which higher sanction is to be obtained are—

(*a*) where the original estimate exceeds Rs. 50 lakhs,

(*b*) where a revised estimate exceeds by 15 per cent an original estimate sanctioned by the Secretary of State in Council, and

(*c*) where a further revised estimate is proposed after one revised estimate has already been sanctioned by the Secretary of State in Council. These restrictions will no longer be applicable when the departments in which such expenditure is incurred are transferred. Under the existing rules the Secretary of State's sanction is also required in matters affecting the increase of the various grants of a Governor and to expenditure exceeding Rs. 50,000 on any original work on the residences of a Governor. The Madras Government see no reason why a Provincial Government should under the new conditions be restricted in these respects. There remains therefore only Devolution Rule 21 under which the Governor-General in Council can require any Local Government so to regulate its expenditure as to maintain a prescribed balance at specified dates and can restrict the issue of money to ensure that this is done. So far as the Madras Government are concerned that power has never been exercised and in their opinion should no longer be retained. Presumably the intention was to enable the Government of India as bankers of the provinces to control ways and means and to take emergency action in times of stringency. The present rules as to payment of interest on provincial balances and the power to deposit them with the Government of India have worked satisfactorily and are to the mutual interests of the two Governments.

34. Under existing statutory arrangements there are four obligatory and priority charges on provincial revenues—

(*a*) The repayment of the balance of the old provincial loan account (Devolution Rule 23).

(*b*) Interest on the capital expenditure and irrigation works up to 1920–21 (Devolution Rule 24).

(*c*) Payment of interest on further loans and advances (Devolution Rule 25).

(*d*) Payments to the famine-relief fund (Devolution Rule 29).

Item (*a*) will automatically disappear when the balance of the old provincial loan account is repaid. Item (*b*) is part of the original financial settlement in respect of capital provided for provincial purposes by the Government of India prior to the reforms and item (*c*) is a condition attached to post-reform borrowings from the Government of India which can reasonably be attached to future borrowings. Item (*d*) is of a different character and lays down that definite provision shall be made against the contingency of famine to meet which is a provincial obligation. The Madras Government realize that if a province is to be financially autonomous it must also be self-sufficient, and that a fund of this kind the statutory amount of which is by no means excessive is essential if financial autonomy is to be preserved. In fact they go further. The famine-relief fund does not cover all those vicissitudes and emergencies to which the province is subject. Cyclones and floods from time to time necessitate considerable emergency expenditure which if not otherwise provided against may seriously embarrass the ordinary administration of departments. They consider therefore that an emergency fund of half a crore should be constituted for meeting such emergency expenditure. Withdrawal from the fund should require a certificate of the Governor that an emergency had arisen and that the expenditure contemplated is within the statutory purposes for which the fund was constituted. Any withdrawal from the fund would be recouped by statutory annual assignments.

35. Under Part III of the Devolution Rules a Finance department is constituted and its powers and responsibilities are laid down, and it is thus given a position analogous to that of the Treasury in England. This will not be affected by the fact that a Finance Member will be replaced by a Finance Minister, and the Madras Government recommend no alteration in or diminution of the department's powers and responsibilities.

Recognizing as they do that a strong executive will be essential to the working of the reforms they recommend, the Madras Government have considered whether in financial matters the position of the Ministers could be strengthened against dangers which the existing system has made manifest. It cannot be said that the Legislative Council has so far shown any marked sense of financial responsibility. Resolutions of the Council which, if accepted, would involve increased expenditure or loss of revenue are not likely to be less frequent or less casual in the future than in the past. They may indeed continue to be mere recommendations to the Government but under new conditions recommendations

embodied in a resolution accepted by the Legislative Council will be much more difficult to ignore or reject than they are now, and might seriously hamper the Ministry in the discharge of its financial responsibility or in carrying out its own administrative policy. The Madras Government have not been able to devise a satisfactory solution of this question. If the principle that only the Executive Government can propose expenditure were applied to resolutions, it might be urged that this would rule out all resolutions of importance, while to lay down that an integral part of resolutions which, if accepted, would involve a definite charge on the revenues must be a recommendation as to the new source from which the additional charge is to be met might equally hamper legitimate and useful discussion and make unreasonable demands on the financial skill of individual members. Further it may be argued that a Ministry must protect itself by the use of its majority. Past experience, however, does not indicate that the solution is quite so simple. The Madras Government recommend that it should be examined.

36. The Madras Government propose now briefly to refer to the issue of what is known as the Meston Settlement. The financial history of the Madras Presidency since the reforms has in fact been dominated by the question of the provincial contributions to which that settlement gave rise, firstly by the prolonged efforts to secure their abolition and secondly by their eventual remission in successive instalments. The financial effect of these contributions on the Madras Presidency may be gauged by the fact that during the period for which they were in force Madras contributed out of its provincial revenues a sum of Rs. 1,779 lakhs to the Central Government, Bombay, Rs. 286 lakhs and Bengal nothing at all. This disproportionate levy of course arose in part out of the pre-reform history of provincial settlements into which the Madras Government do not propose to enter in detail. They are content to point out that, if prior to the reforms, Madras had been given the same terms as Bombay, its provincial resources would have been increased by Rs. 95 lakhs and that this differential treatment extended also to recurring and non-recurring grants out of the Government of India's surpluses. For example in 1910–11 Madras received a non-recurring grant of only Rs. 11 lakhs out of a surplus of Rs. 251 lakhs and in the years from 1911–12 to 1919–20 Madras with a population of 41½ millions received a recurring grant of only Rs. 28·50 lakhs for education while Bengal with a population of 45½ millions received Rs. 41·81 lakhs

and Bombay with a population of 19½ millions received Rs. 21·45 lakhs. The fact that income-tax was shared on the basis of collections further increased the disparity between what are called the industrial provinces and the agricultural provinces. That disparity the gradual remission of the contributions removed to some extent by making the receipts accruing in respect of provincial subjects in their entirety sources of provincial revenue. Such they must remain as an essential corollary of provincial autonomy and, if any further adjustment of financial relations between the Central Government and the provinces is to take place, the Madras Government would lay down as an essential preliminary to discussion the postulate that any such adjustment shall involve no sacrifice on the part of any province of any revenues now accruing to it. For example, if as has been suggested it is desirable in the interests of commerce and industry that General Stamps should in respect of certain items be a central source of revenue then any loss to the provinces which this involves must be made good by an equivalent assignment. That is a matter which presents no serious difficulty.

37. There is however a further issue inherent in the Devolution Rules themselves which has complicated and at times embittered all discussions on the Meston Settlement, namely, the claim of industrial provinces for a share in income-tax as a burden on wealth and enterprise which they claim to be peculiarly their own creation. An attempt was made to meet this claim by the incorporation of Devolution Rule 15 in the existing financial settlement. It was apparently anticipated that income-tax would be an elastic source of revenue and that by giving a share in any increase, which would naturally be much greater in industrial provinces than in agricultural provinces, the claims of the latter would be reasonably met. It failed to give satisfaction because this progressive increase did not take place. That was an accident or the result of economic conditions which no allocation rule based on the assumption that income-tax would be an expanding source of revenue could affect. Complaints were of course raised by the industrial provinces that the rule did not give them what it was intended to give, and eventually in 1925 the problem was referred to the Indian Taxation Enquiry Committee in the following words :—

"The operation of Devolution Rule 15 in regard to the allocation of a share of income-tax to Provincial Governments has not been quite fair to all of them and the Committee should advise them on this aspect of the case".

So far as the Madras Government are aware, the industrial provinces in spite of the experience of the past eight years still hold the view that income-tax irrespective of any enhancement in the rate of taxation is essentially an expanding source of revenue. However that may be, these provinces are no longer prepared to allow that assumption to determine any future method of adjustment and prefer to rely on the more solid ground of a share in income-tax actually collected irrespective of whether receipts expand or not. In this form the issue becomes comparatively simple. If the provinces are to receive a larger share of income-tax receipts, either the Government of India must be possessed of surplus revenues or provided with additional revenues to make good the share of income-tax which they are to forego. In the former case it might be argued that the Government of India should utilize the surplus to reduce its own demands on the tax-payers thus setting free resources which theoretically it would be open to the provinces to tax for their own purposes. The Government of Madras recognize, however, that practical considerations must determine the settlement of this question and that it is desirable that, given a surplus, some settlement of the allocation should be arrived at which will be accepted by all the provinces as sufficiently equitable. They are unable to put forward detailed suggestions for such a settlement for the good reason that they do not possess detailed information as to the actual incidence of the existing tax. While however they quite realize that any equitable allocation may result in one province receiving proportionately more than another, whether as regards the total amount or on a population basis, they wish to protest in advance against any allocation based solely on collection. They are not prepared to concede that in this matter an equitable solution can be determined by the mere accident of where the tax is paid. Similarly, if the existing basis of taxation provides no surplus available for distribution and such surplus is to be found by additional central taxation, they would not be prepared to consent to any form of taxation which would once again enable the Government of India to be generous to the industrial provinces at the expense of the rest. Subject to these considerations the Madras Government are ready to examine any concrete proposals for dealing with this longstanding problem.

38. There remains now the difficult question of the All-India Services. This is thorny enough even where only Provincial Governments are concerned, but the vital interest

of the Central Government in the problem makes it at once more acute and more difficult. The Central Government has no Civil Service of its own. It has large departments under its control—Railways, Posts and Telegraphs, Customs, Income-tax and Salt. But these are purely departmental and specialist services, and depend almost entirely on the Indian Civil Service for that infusion of wider administrative experience which a purely departmental career does not provide. To supply that element in its departments, to man the superior appointments in its secretariat, and to provide a quota of officers for its political appointments the Government depends mainly on the officers belonging to the Indian Civil Service cadre whose services are placed either for a period or permanently at its disposal. Similarly, for various special duties or higher administrative appointments it recruits largely from that service or amongst officers belonging to the Provincial cadres of other All-India services. It is impossible in considering the future to leave out of account the fact that the disappearance of the All-India Services from the provinces or any further alterations in their composition or sources of recruitment will vitally affect the Central Government. So far as provincial matters are concerned, the position is clear. Responsible self-government, if it implies anything, implies that the province must be free to recruit its own servants as and where it likes. There can be no imposing upon it a body of men recruited under regulations, from sources and on rates of pay prescribed by some outside authority. The All-India Services in the provinces should be provincialised on the lines already being followed in the case of All-India Services operating in the transferred field, e.g., the Indian Educational Service. All the prospects that the present members of these services now enjoy should be reserved to them. In the case of posts beyond the time-scale where the changes proposed in the Provincial Government make inevitable the disappearance of certain posts to which members of a service had always been able to look forward, adequate compensation in the form of personal pay should be given to those men from whom under the present conditions these posts would have been filled.

39. 'Any who continue to serve': the phrase implies a choice and the choice an opportunity. At present a limited and steadily diminishing number are entitled to retire on what is known as proportionate pension. The history and nature of this need not be further detailed. There can be

no doubt that its grant brought a considerable meed of assurance to the services as a whole and the removal of the original time limit undoubtedly prevented the premature exodus of large numbers of officers who while unwilling needlessly to throw up the career they had chosen would nevertheless have gone in 1924 rather than remain to face an uncertainty greater even than that of pursuing in middle life some alternative occupation. The psychological effect of the grant of proportionate pension and the removal of the time limit was great. Between them they preserved to the country during the first period of reforms the services of a large number of able and experienced officers. If the bulk of the more experienced services had departed within a year or two their places could not have been readily filled and the strain on the administration would have been very great. The right to retire at any time on proportionate pension should therefore be preserved to all those officers now entitled to it.

40. The case of the officers recruited since 1920 in England and not entitled to proportionate pension needs further consideration. In pursuance of a policy which many questioned at the time, special efforts were made to stimulate further British recruitment to the Indian Civil Service. 'Revive' would be a better word, for the natural hesitations of parents before the obvious uncertainties of an Indian career for their sons had for a time practically stopped the flow of British recruits. Distinguished men visited the universities and canvassed students. It is not too strong to say that undergraduates were implored to consider India as a field for their lifework. In the face of such facts it is idle as well as unfair to say that these men knew what they were coming to and so deserve no special consideration if a new instalment of reforms arrives.

41. The Madras Government recommend therefore that all officers recruited in England to the All-India services on a Provincial cadre be given the option of retiring on equitable compensation for loss of career and prospects. A separation might be made between officers of an older recruitment and those of the new, with the dividing line the present eligibility to proportionate pension. The procedure followed in Egypt provides a useful parallel. The younger men have not the same fund of experience as the older ones; because of their greater youth they would find it easier to secure other employment; they would have longer service in India before they could retire in the normal course. Special

attention might be paid to inducing this younger generation to go. The older men have at once more to offer the new Provincial Governments and more inducements to stay in their service. Their experience is of value, their stay in the country shorter and definitely calculable. The majority have commitments to wife and child and have reached an age when a pursuit of fresh employment is not likely to be gratifying or successful. It is probable that if reasonable financial protection and security from harassment were in sight many of this class would when given the option above mentioned prefer to try their luck in the new Madras. It is here that the continuance of proportionate pension comes in. With that ultimate safeguard at their back their uncertainties would be greatly lessened and their efficiency correspondingly enhanced.

42. Similar considerations would require that the funds from which service annuities (including proportionate pension) and family provisions are paid should be made secure from all possible interference and that amenities such as provision of houses, medical attendance, passages to Europe, etc., to which they are now entitled should be continued.

Such a policy would redound to the credit of Indian Governments and to their advantage. Those who went and those who remained would alike feel—and proclaim—that they had been fairly treated. The grave financial burden which the simultaneous departure of all European officers would impose would be averted while the experience and skill of many would remain to help in constructing the new administrative edifice of the Indian provinces.

43. The provincialization of the All-India Services implies necessarily the stoppage of all recruitment to them for the provinces. The problem of the Central Government remains. For some time it will need the services of a class of administrative officers of more than provincial or departmental status. The Madras Government do not propose to discuss this at length as it does not immediately affect their proposals. They would suggest that the Central Government might at any rate in the first years find such men from those still on provincial cadres and so avoid fresh recruitment. A new Indian Civil Service recruited for Central Government needs and lent out by agreement to provinces on the lines of the present Indian Medical Service might be possible. The Madras Government merely indicate the problem as one requiring to be faced.

44. Appointments to the Public Services and all service questions should be handed over to a Public Service Commission for disposal in each province under statutory rules made by the Provincial Government. The Madras Public Service Commission Bill, about to be presented to the local Legislative Council indicates the scope of this suggestion. In the interests of the provinces even now and infinitely more so under the new conditions the Provincial Governments must be relieved from the responsibilities of exercising patronage in this direction. Even now the pressure by constituents on every member of the Legislative Council and still more on every Minister to use his position in the furtherance of this or that individual appointment is intolerable and mere election ought not to involve inevitably the subjection to this annoyance and the incurring of the hostility of most of the numerous band he cannot hope to gratify.

GOVERNMENT OF MADRAS.

SUPPLEMENTARY NOTE.

The Commission desire to have the views of the Madras Government on three matters to supplement the memorandum the Government have submitted to the Commission :

(1) Whether administrative control of the High Court should be transferred to the Central Government ;

(2) Whether the Local Government and Legislative Council should have the power to make changes in the electoral and franchise rules that may now be settled, and if not, in what authority that power should vest ;

(3) Whether the Madras Government have any submission to make regarding the constitution of the Central Government.

2. As regards the High Court, we see no reason for any change such as that suggested. By administrative control is, we understand, meant the provision of accommodation for the High Court and its establishment and provision of funds for the payment of the Judges and staff. Such matters in the case of Bengal may vest in the Governor-General in Council, but the reason for this is, so far as we are aware, historical, and we consider that in Madras the Local Government are better qualified to judge of such matters than the Government of India can be.

3. As regards power to alter the electorate, whatever may be the ultimate arrangement, we consider that for the present changes should be made with caution and we would recommend therefore that section 129-A (1) of the Government of India Act be amended to provide that rules under section 72-A (4) be made by the Local Government with the sanction of the Secretary of State and be subject to the provisions of subsection (3) of section 129-A. We may say here that we would recommend similarly that the power to alter the electoral rules for the Central Legislature should remain as provided for in sections 64 and 129-A of the Government of India Act.

4. Regarding the Central Government, the proposals we have already made postulate its functioning untrammelled by any of the limitations and difficulties of dyarchy. That Government must continue in its present form until the time comes to replace it by a federal body derived from the constituent provinces and states. It is not for us to discuss the exact constitution of the executive side of the Central Government. It would perhaps not be travelling beyond our province however if we suggest that the number of the members of the Executive Council of the Governor-General be increased so as to admit of the selection of members with administrative and local experience from a greater number of the provinces than has hitherto been found practicable.

5. As regards the legislative machinery, we do not advocate any change as regards the Council of State. As regards the Legislative Assembly, we consider that it should be made more representative of the interests and views of the Provincial Legislatures than is now the case. We therefore recommend that, while the separate constituencies, namely, for Muhammadans, Europeans, Landholders and Indian Commerce may remain, such general seats as may be allotted to the province should be filled by election made by the members of the Provincial Legislative Council, of persons, whether members of the council or not, who are qualified under the Provincial Electoral Rules to be members of the Provincial Legislative Council.