

MEMORANDA
ON
CONSTITUTIONAL REFORMS

Presented to the H. E. the Viceroy and the
Rt. Hon. the Secretary of State for India

BY

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MEMORANDA ON CONSTITUTIONAL REFORMS

I

THE case for a reform of the present system of Indian administration may be based upon various grounds, all of them convincing but involving various degrees of urgency. I do not propose here to cover ground which has no doubt been taken up in various other representations to the Secretary of State and shall therefore confine myself to one aspect of the question which appears to me to be the most serious, as it discloses a state of things fraught with grave and ever-growing danger to the permanence of the Imperial connection. I refer to the manner in which the Bureaucracy is losing touch with those whom it governs. It has, in the words of Mr. Montagu, grown "too wooden, too iron, too inelastic" to adequately fulfil the needs of rapidly changing conditions.

It is a favourite charge against Indian politicians that they desire to subvert British administration in India. The method of trying to minimise the force of your opponent's argument by questioning his motives is one not unfamiliar in countries more politically advanced than India. As a matter of fact the only motive actuating Indian politicians in their necessarily severe criticism of the present system, is the consciousness that there is too little of the British character in that administration. They have been taught to regard British institutions as the most felicitous combination of good government and freedom that has yet been

achieved in history. Their actual experience of the British administration in India is that it consists of an irresponsible autocracy, with virtues doubtless of its own, but tending in the passage of years to develop the vices that are inevitable even in the best-intentioned of autocracies. It is scarcely necessary to say that irresponsibility begets self-sufficiency, impatience of criticism, a belief in its own inevitability and, last but not least, a conscious passive resistance with reference to reforms of any kind.

The situation would have been bad enough where the administration was of the same race as those it rules. In that case, at least, being of the people, if not for the people, it might be expected to share the feelings, and exhibit a certain deference to the opinions, of its subjects. In India, however, the defects of bureaucratic rule are accentuated by the fact that the administration, or that portion of it which holds the reins of power, consists of an alien race with ideals and a civilisation sundered as widely as the poles from those of its subjects. Nor is that the worst. The administration is not merely alien racially, for if that were all we might expect that a race with the traditions of freedom and bred up in the democratic atmosphere of Britain would be capable of sympathising with and guiding the aspirations of the subject race. Unfortunately the administration has become the special preserve of a caste—and we in India have had bitter experience of the soul-deadening effects of caste-rule. That caste has traditions and shibboleths of its own. It is a close corporation, recruiting its ranks, it is true, regularly from the outside world, but taking the utmost precautions that the neophyte shall assimilate its traditions and atmosphere, and punishing the aberrations of an occasional strong-minded man, tempted to stray from the narrow path laid down by it, by the crushing

weight of its collective disapproval or, even in extreme cases, by means of social ostracism. It has thus developed a type with well-marked characteristics, and nothing is more remarkable than the way in which new recruits assimilate to that type. So powerful is its influence and so overpowering is the anæsthetic character of its atmosphere that instances have not been wanting where men who have spent a lifetime in the democratic air of England have succumbed to its narcotic influence and surrendered with cheerful passivity the principles of a lifetime.

In this connection it may be worth while enquiring how far the system of appointing British statesmen to important positions in India can be developed. In any case it is sufficient for our purpose here to note that the five-years' term of Indian pro-consulates is much too long in the case of the weaker specimens who are unable to resist the peculiar atmosphere of Indian officialdom, and much too short in the case of those others—much rarer—who are able to resist that influence and survive with all their principles in full working order; for it takes them an appreciable portion of their period of office to fight off the lethargy of soul that the atmosphere engenders.

I have said that the bureaucracy is a close corporation, the monopoly of a caste, with traditions and ideals of its own. That caste is the Indian Civil Service, which a discerning, if irreverent, phrase-maker called the "Heaven-born Service". It may not be out of place to examine these traditions and ideals, for they lay bare the defects and virtues of bureaucratic rule. The first of these may be briefly summarised in the single phrase "white man's burden". That connotes that the rule of the white man over the coloured is inevitable, that the latter is unable

to rule himself with any degree of efficiency, that in his own interests it is better that he should be ruled by a white man than by himself, that such rule is not only best for the present but, since his capacity for Self-Government is non-existent and therefore cannot be developed, for all time. That is perhaps an extreme position which in the rapidly changing conditions not even the most extreme exponent of the school dares openly to set forth, but the feeling is none the less present because it cannot find open expression, and inevitably colours the views and actions of the average members of the Service. It is at the bottom of much of the recent arguments advanced against the Indian claims that it is better for India that she should be ruled by the Service, that her interests are safer in its hands than in those of educated Indians, who by the conclusive logic of vociferous reiteration have been proved to be selfish and self-seeking exploiters of their own countrymen.

Thus far the argument is objective. Subjectively, the Service boasts of its efficiency, points to its past record, and deduces a claim to the continuance of its privileged position in the present. It is the "Heaven-born" Service because it is the most efficient service in the world, with the proud records of sacrifice made at the altar of their adoption that readers of Mr. Rudyard Kipling ought to be familiar with. To say it is also the costliest Service in the world is perhaps a mercenary way of estimating services on which no money-value can be placed, and we must not be thought to undervalue the great and undoubted services rendered by the Service as a body in the past, if we urge that the bureaucracy cannot justify its present existence by past usefulness any more than a worn-out howitzer, whose continued use would be more dangerous to friend than to foe, can urge in its behalf the memory of the days when it spoke with effect.

These then are the two great traditions of the Service, the tradition of its inevitability and the tradition of its services. From overmuch contemplation of, and insistence on, these traditions spring up many characteristics that go to define the type, and it is a curious perversion of things that at the present time the true test of the perfect Service man is rather the possession of the characteristics than the traditions. Perhaps the most offensive of these characteristics to the educated Indian is the consciousness of racial superiority. The Service man in his dealings with the Indian is not merely the official in relation to the non-official, he is a member of a superior race dealing with one of an inferior, and there is consequently a noticeable, if more or less unconscious, feeling of contempt that the Indian finds it hard to put up with. Of this spirit of arrogance examples could be multiplied, from the civilian who once divided Indians into two classes, those who are in jail, and those who ought to be in it, down to the latest "candid friend" lecturing Indians on their deficiencies of character. This last is perhaps a characteristic by itself, for there must be a distinction, however subtle, between the consciousness of your own superiority and the consciousness of your neighbour's inferiority. In expression at any rate the one feeling is patent and offensive in proportion, in the other implied and perhaps a degree less provocative of resentment. Of the latter of course the great examples are Sir Michael O'Dwyer's lecture in the Imperial Council on the duties of loyal citizens and his exposition of by how much the Indian politicians fell short of the ideal, and the remarks of Mr. Wood of Roorkee College on the deficiencies of Indian character.

But the proceedings of every Legislative Council, every school or college with European masters, the day to-day dealings of civilians with their

subordinates or with non-officials, furnish abundant examples of this spirit. The naive surprise expressed at the resentment generally aroused by such lectures and the inference that Indians are unduly sensitive to criticism is perhaps proof that the arrogance which is resented is unconscious, but it nevertheless is there, and is of course the true cause of offence.

As a matter of fact it is not the Indian public which is unduly sensitive to criticism : it is the Bureaucracy. But the man with a gun in his hand has always the better of the argument with one unarmed. He can act, while the latter can only talk, and the tendency of the Bureaucracy has ever been to treat criticism not with contempt but with silent action taken to muzzle it. A study of the policy of repression steadily pursued in India with such intervals as the advent of a strong or liberal-minded Viceroy has necessitated, will be convincing testimony of the Bureaucracy's sensitiveness to criticism. The law of sedition and the manner in which it has been interpreted by courts composed of, or at least sympathetic with, the Service; the amendments carried out in the teeth of protests to widen its scope, the long series of measures, among them the Seditious Meetings Act, the Criminal Procedure Code Amendment Act and Post Office (Amendment) Act of 1898, Official Secrets Act of 1904, Seditious Meetings Acts of 1907, 1910, 1911, Newspapers (Incitement to Offences) Act and Criminal Law Amendment Act of 1908, Indian Press Act of 1910, Conspiracy Act of 1913 and Defence of India Act of 1915, a code far too Draconian to be explained on the mere ground of necessities of efficient administration; all these testify to the manner in which the Bureaucracy resents criticism. When on top of the vast powers conferred by this code it was sought to use a purely War measure—and assented to by the Indian members of the Council as such—for the

purpose of stifling criticism, the patience of the public reached breaking-point, and the internments of Mrs. Besant and her co-workers roused the public to a pitch of indignation which was only paralleled by the feeling in Bengal over the partition. Fortunately that indignation was assuaged by the new policy inaugurated with the advent of Mr. Montagu. But the Indian public has neither forgotten nor forgiven how nearly the bureaucratic spirit triumphed. "No quarter for Home Rulers," was the war-cry enunciated by a Madras Anglo-Indian Journal. "No quarter for the Bureaucracy," must be the war-cry of the public, for it feels that vast issues are at stake in the struggle; its very existence, the heritage of two centuries of British rule, the position of India in the Empire and the status of Indians, whether they are to be helots or free men.

The ideals of one generation are the accomplished facts of the next and, as in every well-ordered State it is necessary for all true progress that there should be an element whose characteristic is conservative caution as well as one of progress, it may be argued that the existence of a Bureaucracy, acting as a brake upon a too rapid progress fraught with risks to the State, is amply justified. Thus it may be pointed out that the Bureaucracy in India is the Indian incarnation of the Conservative party in England, regarding whose usefulness in the scheme of ordered development of British polity there can be no question. The casuists who employ this false analogy will no doubt argue that the Indian leaders who form the party of progress have in the main an educative mission to perform, that their duty is to instruct and convince the people of India about the necessity of their measures of reform, and when that task has been performed, the conservative element has

to yield with such grace as it can command. But what are we to think of a state of things in which, to work out the analogy, the Conservative party are in the position of holding for perpetuity the reins of power, with the Liberals wandering in the wilderness with no probability, as far as can be seen, of the appearance of any Heaven-inspired deliverer? How long, we ask, could the British people be expected to put up with such a situation? History has furnished the answer time and again, and what we ask of the British democracy is to put itself in the position in which the Indian people, concerning the rousing of whose national consciousness there can be no question, now finds itself.

But, it may be argued, reforms in India may be slow but they are certain. The Bureaucracy may oppose them but even the strongest of Governments can only delay, not prevent, any reforms which the people insistently demand. Whenever the British democracy has one of its periodical searchings of heart in regard to its responsibility in India, it manages to get reforms carried out which go some way on the lines demanded by the Indian public, while an occasional liberal-minded Viceroy rises superior enough to his atmosphere to insist upon such reforms. But Viceroys may come and Viceroys may go, but the Bureaucracy goes on for ever. The fleeting searchings of heart of the British democracy are necessarily few and far between, and the Bureaucracy is in the position of the steward who knows or thinks he knows what is best in his master's interests and receives his occasional instructions with his tongue in his cheek. When the present King-Emperor, then Prince of Wales, made his famous appeal for more sympathy in the treatment of Indian problems, the world applauded the sentiment, but the appeal did not touch the heart of the Bureaucracy. Individuals here and there felt a

warm glow of affection steal through them for the land of their adoption, but as the Bureaucracy has an entity apart from the entities of its members, its withers were unwrung at the implied rebuke. Like any other corporation composed of individually excellent people, it has neither a body to kick nor a soul to be saved. It is this spirit of passive obstruction to anything that would affect its own position and authority and against which Indian politicians have been knocking their heads in vain for two generations past, which has at last convinced them that the Bureaucracy cannot be mended with any hope of its being made to serve the country in the future.

There has been no single major reform that the Bureaucracy has introduced of its own volition; none that it has not opposed tooth and nail; none that it has not tried to emasculate in the carrying out. We need not here go through the long list of reforms for which Indian politicians have been clamouring, the justice of which is obvious, but many of which are still tasks of an undetermined future. They include such matters of common justice as simultaneous examinations, the apportionment of military expenditure between England and India, abolition of forced labour and forced supplies, reduction of "Home charges"; such questions of the elementary rights of civilised human beings as trial by jury, military training and the position of Indians in the Colonies; matters of administrative reform which ought to be commonplaces in any advanced system of Government, as the separation of judicial and executive functions, the reform of land revenue system, recruitment of the judiciary from the bar, relief of agricultural indebtedness, the larger employment of Indians; such accepted duties of the State to the people as free and compulsory primary education, extension of technical education and industrial development, periodical enquiries into

the economic condition of the people ; abolition of the restrictions on public rights such as liberty of speech, writing and public meetings ; and finally the major political reforms associating the people of the country in an increasing degree with their own Government. Mere opposition to reform is not the worst of the Bureaucracy's sins. What is much more serious is the manner in which it is allowed to whittle down and render ineffective such reforms as the Indian people after an arduous struggle manage to obtain sanction for from Parliament. It is true the Bureaucracy is as it were put upon its honour to work the scheme of reforms, though in ordinary life no sane man would choose as guardian for his treasure the opponent with whom he has just had a fierce fight over its possession. But the Bureaucracy, if by its implicit parole it is forbidden to "kill" its charge, need not, in the words of the poet, "strive officiously to save". Experience at any rate has shown that it is not wise to trust too much to the sense of duty of the Bureaucracy. To take the two greatest forward steps within the last fifty years, nobody can pretend that Lord Ripon's scheme for the extension of Local Self-Government or the Morley-Minto reforms have achieved, even in an appreciable degree, all that was hoped for by their authors. Our local bodies are after a generation still machines for registering the decrees of the local official, and our Legislative Councils still costly debating societies of considerable powers of boredom, the non-official members in an attitude of alternate criticism and supplication, with the Government in one of permanent negation.

The traditional conception of the typical bureaucrat is of a bluff, straightforward and shrewd Englishman, prevailing by his directness of speech and method over the supposed tortuous ways of wily Orientals over whom he is set in authority. It may

be that there have been such men in the past. When the preservation of peace and order was the first necessity to which all others had to yield, the justification for the extraordinary powers vested in the official lay in the importance of his task. In whatever he did he was justified of all men so long as that necessity was satisfied, and consequently he could do what he thought was right with a simple directness that has perhaps been the inspiration of more encomiums than it deserved. But other times, other manners. With the growth of public life the official finds his tasks growing more and more complex. He has now to placate and convince where once he could command. In this period of transition he is compelled to exhibit new characteristics, with the result that he is arrogant where he can be safely, and intrigues when he must. For where the powers and privileges of his caste are concerned he cannot any longer afford to treat his enemies with contempt, and in the defence of the indefensible he employs the weapons familiar to the supporter of every illogical, out-of-date system struggling to maintain its hold.

In justice to him it must be confessed that he has beaten the Oriental at his own game and developed a complete art of statecraft which could give points to a syndicate composed of Machiavelli, Li Hung Chang and Abdul Hamid. The cardinal pillar of the fabric is of course an ancient one. It is the familiar principle of "divide and rule" which has of late been brought into unblushing use in bolstering up the position of the Bureaucracy. It is difficult to speak calmly of the manner in which the centrifugal tendencies of the various elements of the Indian population, the overcoming of which is a slow and painful process, are being encouraged by the Bureaucracy in order that

its power may be unimpaired. When the Congress movement started, it set up the Muslims of India as a kind of opposition to that movement, and by a policy of steady preference for that community contrived to keep alive the differences between the two communities till recently. Now that those communities have made up their quarrels and seen the wisdom of agreeing upon a common programme, we are witnessing an attempt, particularly in South India, to create dissensions in the ranks of the Hindus. A few words about the much advertised non-Brahmana movement may not be out of place here. There has for a long time existed among the non-Brahmanas of this Presidency a feeling of discontent with their own position in comparison with the past, the rapid rise of the Brahmanas to prominence and the manner in which they have taken advantage of English education to absorb a considerable proportion of offices under Government. This feeling was intensified by the sense of social superiority which Brahmanas had come to enjoy and which was becoming naturally distasteful to other communities advancing in education. The discontent however was latent and was not serious enough to be noticed until the Bureaucracy in this Presidency, where alone such a state of things existed, woke up to the need of counteracting the Home Rule movement which was spreading with alarming rapidity. Whether the Bureaucracy suggested the move to the leaders of the non-Brahmana movement or whether it merely welcomed its new ally, it is well known that it has kept in very close touch with that movement, that it has encouraged and aided it at every turn. When it shall have served its turn the movement will no doubt be thrown aside like a cast-off glove, but its main purpose now in the eyes of the Bureaucracy is to serve as a means of discounting the demand for reform. The movement provoked a

counter-movement, and each claims to represent the majority of non-Brahmanas in this Presidency. The Bureaucracy is keenly interested in the issue and does a good deal of judicious wire-pulling from behind the scenes.

Good Americans when they die go to Paris. There is similarly a class of people in India whose ideas of heaven are limited to Government House parties and all that basking in the smiles of officialdom of which such parties are the symbol. Perhaps owing to the peculiar circumstances in this country, they are more numerous here than elsewhere. Of this class the Bureaucracy has not been slow to take advantage, attempting to rally them to its cause by methods which would do credit to Tammany Hall.

If the Bureaucracy is a valiant defender of its own interests it is no less solicitous of those others whom it regards as peculiarly under its fostering care. We need not labour this point of "vested interests," for that they exist and that their existence is acknowledged in the most practical form possible by the Bureaucracy, is capable of proof by a number of instances. To take a recent example, the Anglo-Indian agitation: if there is one thing more remarkable than the licence of language of the Anglo-Indian press it is the absolute impunity with which it is allowed to carry on a campaign which is fraught with the gravest consequences for good relations between the two races in India. And yet it manages to proceed from one rhetorical flight to another, broadening rapidly from precedent to precedent in its campaign against the Secretary of State, the Viceroy and the Indian public in general. Were a strong-minded Viceroy to take any action in the matter we have no doubt that the Bureaucracy would make its protest felt in a manner that would leave no doubt of its emphasis. It

is one thing to try to conciliate an opponent; it is quite another to harm an ally, and the Anglo-Indian press is one of the firmest and most faithful allies of the Bureaucracy. It is a kind of semi-official press, the editors of which are extended the privilege of intimate social relations with members of Governments, and forming the medium for the expression of official views. Thus a local journal was able to announce before any other that the release of Mrs. Besant was in contemplation.

There are likewise other "vested interests," one of which is the peculiar position claimed in effect by Europeans in respect of the law of the land. If they are not entirely above it, they can at any rate claim that that law shall be as leniently applied for their benefit as possible. The peculiarly favourable terms on which planters are allowed to hold land, the powers placed in their hands to control their labourers, of which the Champaran enquiry gave such a startling exposure, the general preference shown to Europeans as against Indians in many details connected with the administration of the country, are some more examples of the application of the theory of "vested interests".

We come lastly to the question of efficiency. The Bureaucracy is justified because it is efficient. "After me, the deluge" may well be the motto of the typical bureaucrat. To any suggestions for reform of the public services, for introducing a larger Indian element into those services, the invariable reply is that efficiency must not be sacrificed to sentiment. The British character of the administration must be preserved. Such a position postulates two things, both of which are in the nature of begging the question. One is that the extension of the Indian element would affect efficiency, or to put it in another way, the British

character of the administration. The second is that the bureaucracy is so highly efficient at present that any change in its character would lead to loss of efficiency. As regards the former we need only point to the long list of successful Indian administrators who have made many Native States models of efficiency. Can it for a moment be argued that men who, in the backward conditions that generally obtained in Native States of the old type, have managed to evolve efficient administrative machinery, are not capable of continuing the traditions of efficiency in the British administration ?

With regard to the second point, is it so certain that the Bureaucracy is so efficient as it claims to be ? The Mesopotamia report presented a different picture. We are prepared to concede that the Bureaucracy was once efficient, when nothing more was asked of it than to preserve law and order, to see that there was no flagrant oppression, that the jarring elements kept the peace and that the weak man was not at the mercy of his stronger neighbour. Our quarrel with it is that it has not kept pace with the changing times. It is supposed in some mysterious way to be the champion of the voiceless masses against a microscopic minority of self-seeking politicians who aspire to power for their own ends. A statement so palpably absurd needs no refutation. Suffice it to ask one simple question : How many reforms of benefit to the masses did the Bureaucracy carry out of its own volition, or even otherwise than after the repeated and urgent insistence of the Indian politicians ; and how many of the reforms now asked for by the latter are meant to benefit themselves at the expense of the masses ? The Bureaucracy is intolerant, it is growingly inefficient and it is developing a most harmful spirit of pragmatism. Are Indians unreasonable if they claim that a system which has had its day should give

place to one more suited to the rapidly changing conditions of this country?

I hope I have conclusively shewn that the Bureaucracy is not a fit guardian of any scheme of reform, that it cannot be trusted to work it out with that sympathetic care which it requires. Valuable therefore as is the announcement of the British Cabinet in regard to the ultimate goal of Self-Government for India, it is as yet only the latest of a long series of assurances of goodwill from the British democracy which have not been translated into action. The responsibility for non-fulfilment lies at the doors of the Bureaucracy, and the Indian public has no confidence that the latest announcement of policy will not remain as much of a dead letter as the previous ones, or that after a few initial "reforms" the Bureaucracy will not cease its insidious attempts to stop further progress. Since likewise the British Parliament cannot be expected to take that constant and unremitting interest in India which is necessary to keep alive the flame of progress, the necessity is imperative that the reforms now under consideration should include a definite time-limit for the various stages towards Self-Government. This the Indian public regards as far more vital than even the scope of the initial reforms. "Hope deferred maketh the heart sick," and of that indisposition the Indian public has had its fill.

In conclusion, I may perhaps be permitted to add a few words of personal explanation. I belong to a generation which has all but disappeared, the tradition of which was to support the Government as a public servant, and I cannot therefore be accused of being an impatient idealist or of wishing to subvert a rule which my generation has done a great deal towards consolidating. I have spent over

40 years in the service of the country and the King-Emperor, rising from the humblest beginnings to the highest office in the judiciary of the land. I do not wish to make a parade of my loyalty or to make of it a cloak behind which to attack the British administration, but apart from my conservative traditions and my record of service I had the honour to welcome His Majesty King George, then Prince of Wales, to this Presidency, and still cherish those feelings of respect and reverence for his person which his visit inspired all over India. But I have not been unobservant of the rapid progress the country is making under British rule. That progress is vast and unbelievable to one who is not like me a survival from an older generation. I have watched the Bureaucracy getting rapidly out of touch with the people. I have watched that people growing daily stronger in National consciousness. I have witnessed the awakening of political interest in the masses to a degree which would surprise the Bureaucracy. I am convinced that there is a sincere and widespread demand for Home Rule, and not merely as an Indian but as one who has helped in some degree to the building up of the fabric of British Government in India, I must regard this reform as inevitable. I have laid stress upon the defects of the Bureaucracy because I am convinced that unless those defects are remedied the fabric which has been erected at so much sacrifice will be in danger of collapsing. No State can long endure in which officialdom is permanently out of touch with the ideas and aspirations of the public.

I hope I have made it sufficiently clear that, apart from any intrinsic virtues in Self-Government or any question of Home Rule being the only fitting crown of the mission of Britain in India, the establishment of closer relations between the State and the people than

now obtains under a system in which the interests of the two appear so widely separated, is the first necessity of the situation. The only solution history has ever found for such diseases in the body politic is the extension of popular control over the executive. That is why Home Rule appears to me not only inevitable, not only a gracious boon conferred upon the people of this country by Britain, but the only remedy adequate to the needs of the situation, the only measure that can insure the continuance of the British Empire.

II

IN submitting my views on the need for constitutional reforms to the Secretary of State last month, I took the liberty of offering, in the latter part of the memorandum, a few words of personal explanation by way of suggesting how the need for the recognition of Home Rule on which I laid stress, came to be deemed by me as the only remedy adequate to the needs of the situation; and how I felt compelled to commend the granting of the same for favourable consideration and adoption.

Since submitting my above memorandum, it has occurred to me that it is necessary to add a few more words to that personal explanation. This necessity is due to the futile outcry now much in evidence here against certain persons sought to be tabooed as seeking to subvert the existing Government and substitute for it a "*Brahmin Vakil oligarchy*" from none of whom the masses can ever look for any support of good.

My object here is to state certain facts connected with my life as a public servant and public worker during a period of thirty years, ending with my retirement as Judge of His Majesty's High Court in Madras which would afford incontrovertible proofs showing that, in spite of my *Brahmin caste* and my connection with law, I was not slack in rendering substantial service to a considerable mass of agriculturists throughout the Presidency, and that I am hardly the person who could have been induced to join a so-called oligarchic conspiracy. Now to the facts which I wish briefly to submit:

I was born in an ordinary family, the members whereof held agricultural lands in the southern part

of the Presidency. Some of them occupied minor posts in the public service. After a very limited education, I myself obtained a footing in the same service, beginning with Rs. 20 a month. This was in 1859 when I was about 17. I continued in Government service for about 9 years, during which period, my work brought me into frequent contact with the agricultural population in the District. In 1869, I entered the legal profession, having been then enrolled as a *wakil* of the High Court. For a period of 27 years, I continued to practise and had professional engagements in many parts of the Presidency. I had to appear in cases relating to disputes between the occupiers of the soil called *rai-yats* in some of the permanently settled tracts and the holders under such settlement ordinarily spoken of, in this Presidency, as Zemindars. This necessarily added to my knowledge of the land tenures in the country. The knowledge thus acquired became serviceable, when as a Judge of the High Court from 1895—1907, during which period I also acted as Chief Justice thrice, it became my duty on a number of occasions to adjudicate upon questions arising between the Zemindars and the occupiers of the soil.

About the year 1864, a statute had been passed by the Madras Legislative Council, which purported to amend and consolidate the old enactments of the early part of the nineteenth century dealing with the relative rights of those Zemindars and those occupiers of the soil. In dealing with this statute, some of the judges in the country—all Europeans—had expressed themselves in terms capable of unsettling, by an erroneous application of notions of English Land Laws, the long established relations between the said two classes, contributing to evictions and attempts to evict cultivators on a large scale in different parts of the Presidency. The mischief due to such judicial pronouncement had made itself evident within a

decade of the passing of the said consolidating enactment. This was one of the causes that led to a recommendation for legislation, so as to protect tenants from arbitrary eviction by landlords, being made by the Famine Commission which sat in 1877 with Mr. James Caird as one of its members, and before which I gave evidence advocating that such protection of the masses of the cultivating class was urgently needed. After some lapse of time, the Madras Government appointed a Commission to prepare a draft law, dealing with the whole subject of the relations between the Zemindars on the one hand, and the occupiers and cultivators of the soil on the other. I was one of the members of that Commission which held its sittings in 1885 and submitted a draft. It was not until after the lapse of about 19 years, that the discussion on the subject between the Madras authorities and the Government of India resulted in the introduction of a final bill called the Estates Land Bill, in 1904, during the regime of Lord Ampthill, which became law during the next regime of Sir Arthur Lawley under the title of Estates Land Act. The fundamental question involved in the said legislation was whether the millions of occupiers of the soil constituting the agricultural population of the permanently settled Zemindaris, were, as contended by the Zemindars, mere tenants at will or tenants from year to year, or whether, as the raiyats contended, they had a permanent right to remain on the land subject, of course, to the customary revenue and other dues being paid to the Zemindars as the assignees of the right of the Government to such revenue and dues, liable to eviction only in default of payment of the same and only under due process of legal adjudication, before the constituted revenue and other tribunals.

The Zemindars naturally made common cause all over the country and endeavoured to get the legislature

to accept their own contention which had prevailed before judges more familiar with the rules of tenancy in England than with the Indian customary law and usages. Fortunately for the country the efforts of the Zemindars failed. The legislature decided in favour of the raiyats, finding that their contention had the support of the customary law of the country, as expounded and explained by two Indian Judges, my predecessor and myself, in more detail and in a larger number of cases. All this was acknowledged at the time of the introduction of the Bill both by the Hon. Mr. G. S. Forbes, the Member in charge of the Bill, and by Lord Ampthill, the then Governor and President of the Council. The former said :

I do not know whether it is really necessary at this time of day to enter upon any critical examination of the status of the Zemindar and the raiyat, seeing that the whole question has been so lucidly discussed and the right inherent in the status of both so clearly laid down in recent years in well known Judgments of the High Court under the able guidance of those very distinguished Judges, Sir Muthuswamy Iyer and Sir Subramania Iyer. These Judgments lay down in effect that *qua* the public cultivable land of the estate, the Zemindar is not a landlord in the sense of the English law of Landlord and Tenant, nor the raiyat a tenant, but the former is an assignee of the Government land revenue and that the latter possesses rights of occupancy indefeasible so long as he pays the Zemindar's due.

Whatever may have been the construction placed on the provisions of Act VIII of 1865, some twenty years ago, it is fortunate that in later years its interpretation has been in the hands of judges, not only great and eminent lawyers, but jurists possessed of a mature knowledge of the common law of this country and imbued with its spirit, I refer, I need not say to those great Judges, Sir Muthuswamy Iyer and Sir Subramania

Iyer. Nothing has strengthened the hands of the Government in prosecuting the legislation so much as the expositions of the law which these Judges have from time to time given forth on the questions which are fundamental in this Bill, and if this Bill passes, it is a deep debt of gratitude that the agricultural population of this Presidency will owe to the memory of Sir Muthuswamy Iyer and to the labours of Sir S. Subramania Iyer.

The President's remarks were as follows :

We therefore decided no longer to take the Bengal Tenancy Act as our model, but adopted the principle that every cultivator admitted by the landholder to the cultivation of the estate lands, not being private domain, is entitled to the status of an occupancy raiyat protected against eviction at the landholders' will, so long as he pays the established or prescribed rates. This, we hold, is the position which the cultivator enjoyed under ancient custom throughout India and which, although it has often been obscured, has never been entirely lost in this Presidency. It is the position which has been confirmed by recent decisions of the High Court and we now wish to make it part of the substantive law of the land. I have heard it said that the raiyat of Southern India will never know how much he owes to Justice Sir S. Subramania Iyer for having declared "that the common law of Madras gives every raiyat an occupancy right irrespective of the period of his holding". It is this opinion—an opinion which has been upheld in repeated declarations of Government which we wish to focus and stereotype.

I have only to add in this connection that in the enactment of this Bill into law, it was chiefly the Brahmin and also the non-Brahmin members of the Council belonging to this so-called oligarchy that most warmly co-operated with the Government, and that the stiff opposition which this declaration of the rights of the raiyats encountered in the Legislative Council came, naturally, from the class who now pose

as their protectors against the oligarchic schemers, and who for so many generations have continued to keep a tight hold over the tenants and have never been known to interest themselves in anything else belonging to the raiyat but the full share of the produce of the soil they could lay claim to. I beg to conclude this part of my memorandum by only adding that people who have thus in this and many other ways supported the cause of the raiyats all along both inside and outside the legislatures of the country can hardly be described with any degree of truth as a self-seeking clique opposed to their interests. One like myself, who supported the cause of the raiyats from the year 1877, before the Famine Commission, right on to the day when from my place on the Bench I did my best to effectuate their rights and thus materially contributed to their victory in their difficult contest with their wealthy opponents—cannot be disposed of as a self-seeking Brahmin inimical to the masses, and my strong advocacy in favour of the particular reforms recommended by me in my former memorandum was due solely to the reasons respectfully submitted by me therein.

I crave permission to conclude with the remark that, only when those reforms have been granted by Parliament and have become accomplished facts, only then can the masses—for whose well-being extreme solicitude is pretended to be evinced by the inventor of the novel phrase about the imaginary oligarchy—only then will they be able to look forward with some hope of realisation, for the freedom from these evils and misfortunes to which they are undeniably subject at the hands of the class so loudly professing friendship to them and to which class the inventor of the unscrupulous phrase himself belongs.

III

IN my first memorandum, I endeavoured to state my general reasons for the urgent need for constitutional reforms in this country.

In the second memorandum, I added a few words of explanation to show that my testimony on the point was not that of a character to be set aside as belonging to any clique, factions or otherwise. I submitted that the only remedy, adequate for the situation, is the grant of Popular Government. In doing so, however, I entered into no detail as to the nature and character of what would meet the requirements of the case, having regard to its very special circumstances. As without some statement of mine on the matter my humble representations would be quite incomplete even in so far as I can present them sufficiently in communications like these, I crave permission to submit the following for such consideration as may be deemed fit :

The highest merit, from the point of view of an Indian subject of His Majesty, in the Congress-Muslim Scheme of 1916, is that it unhesitatingly and unequivocally claims for India that without which India's destiny as an integral part of the British Empire will not be attained. I mean true Home Rule.

That such rule India is to have finally, the present British Cabinet has now definitely admitted.

The precise date on which Home Rule, in its fullest sense, is to be an accomplished fact in India is a point on which the Imperial Parliament must decide soon, and its decision be made known in order that the present state of excitement and expectation may adjust themselves without unnecessary suspense.

It is not sufficient that the final expression of the said decision should be in any other form than a direct one in the Imperial Statute dealing with the subject; the Statute itself being, further, self-contained and leaving nothing essential for declarations in the form of mere Proclamations and the like.

It is scarcely necessary to state that the reason for the submission, respectfully made above, is the extreme distrust prevailing in this country as to the inviolability of promises, Royal or otherwise, to the people of India. It is the settled conviction that the now famous Dogma that solemn engagements, even by States and Kings, are but scraps of paper did not originate in Prussia but in England, and has been in practice again and again applied in so far as the Indian people are concerned. In a few cases, as for example, even with reference to some of the provisions of the Charter Act itself, the Dogma in question has been openly acted on. It is high time that such a conviction in the minds of His Majesty's Indian subjects should cease to exist. And one way towards that most desirable end is to make the present instance such as to leave no room whatsoever for any doubt in the matter by embodying in the forthcoming Statute everything material bearing on the subject in hand, putting it out of the power of ~~anyone~~ in England or elsewhere, including future Cabinets, to create the least difficulty with reference to what is vital to the future growth of India, nay, to the interests of the Empire itself.

One more point about which it is felt necessary to add a few words here is the so-called grant of "Home Rule by instalments". It must be confessed that the phrase is a very puzzling one, in the absence of an authoritative and adequate explanation. It would not be difficult to find for the expression an intelligible sense if the intention was to grant Home Rule, say to Bengal at one time, to Madras at another time and so on. Even here, there is no such thing as Home Rule granted by instalments, say to Bengal, unless it is

placed out of the control of the Government of India altogether and made into a distinct political unit. But in every other aspect of the subject, the phrase, under consideration, is clearly misleading and open to grave objection. It is said that the phrase is capable of covering such an arrangement as the following: "Grant of Local Self-Government to begin with, next Provincial autonomy and lastly autonomy to the Government of India." The objection to this most fallacious view is obvious. For, in the first place, it is absurd to talk of Home Rule as really granted, unless it extends to and completely includes the head and the vital part of the State machinery concerned. In other words, it is utterly idle to talk of Home Rule to India, unless the Government of India is within the arrangement and not out of it. Surely, assuming all the rest of it, Provincial autonomy, Local Self-Government, etc., are all to be given, yet that would really mean a grant of something without its life, inasmuch as the Government of India, uncontrolled by the People's representatives, could utterly nullify with impunity the beneficial operation of the grant, in so far as the subordinate portions of the governmental machinery are concerned. Were it otherwise, it would be equally legitimate to talk of the grant of Home Rule to India by instalments if even nothing more than village autonomy is started as a first step. But that would be ridiculous. In short, to talk of the grant of Home Rule to India when Provincial autonomy and Local Self-Government are given unaccompanied by popular control over the Government of India is to talk of the birth of a headless trunk, still-born of course. Unquestionably, the term "Home Rule" ought never to be applied except where the whole political unit concerned from top to bottom acquires the power of exercising such rule. This is but common sense and reason.

The recommendations below proceed on the assumption that full and true Home Rule to India will come into operation on a day to be fixed by a Statute; but till then, the administration in India will be carried on on strictly Home Rule lines, but safeguarded by that control of a final authority in England who, if willing, could easily guide the project to its full fruition. This intervening period may properly be described as the tentative period. In every view, this is the arrangement which should be most satisfactory to all concerned. For, on the one hand, it will enable the people to gain by direct experience that complete knowledge which they would require to carry on Home Rule successfully when the time for it arrives, subject at the same time to that impartial control which, in the interests of good government for India as well as in the interest of Great Britain, is indispensable during the tentative period. One absolute advantage that would attend the arrangement is that Great Britain would be in a position to decide upon facts, incontrovertible, the vexed question of the fitness or unfitness of the Indian people for Self-Government. Common justice demands that, if they are to be judged in the matter at all, it should be only as the result and on the basis of such actual experiment. Everything else will be a matter of opinion on the part of those who are, in the very nature of things, bound in their own selfish interest to oppose the claim of the people.

If, under these circumstances, even a trial, such as the one suggested above, during what has been termed the tentative period, were to be denied to them, it cannot but be viewed by them as a calamity alike to them and to the Empire, the responsibility for which will be entirely with England.

For a progressive scheme to be such as to work

smoothly, during the tentative period, two things are necessary.

First, the power of deciding whether a particular-measure is to become law or not should belong exclusively to the Elected Councillors; so also should the final opinion in India belong to them, as to the future continuance or modification of an existing policy under any particular head, or the introduction of new policies connected with the development of the resources of the country, and all measures affecting the permanent interest and well-being of the people. The elected members should likewise possess Budget Power subject to well defined exceptions on the score of the permanent or consolidated character of the charges.

Secondly, the power of veto should reside only in the British Cabinet and not with any official, however high, in this country. Take, for example, the instance of a Bill introduced by the Executive, but rejected by the Elected Councillors. In such a case, the British Cabinet would, if they deem fit, overrule the rejection and direct the provisions of the Bill or so much of it as they approve of, to be enforced as an Ordinance.

It is necessary to add that the power of veto, vested in the Cabinet, should be exercisable only where the Executive and the Elected Councillors fail to agree; but where they do agree, no control over them should be exercisable even by the Cabinet.

Final decisions relating to disagreements regarding questions of policy in India, will also have to issue from the Cabinet. If the functions and powers of the two branches are not so definitely marked out as above, but are left vague and in a state of uncertainty, the inevitable consequence will be constant disputes between the two Bodies—the Legislative trying to arrogate to itself authority more and more, while the aim of the

Executive will be incessantly to curb and thwart the Elected Opposition.

The exclusive power of the Elected Councillors on the one hand, and the authority of veto in England, instead of its being vested in the Executive or its presiding Chiefs in India, would comprehensively guard against all deadlocks and contribute towards the orderly preparation for the final stage of Home Rule. For, the Executive in this country on the one hand and the Representatives of the people on the other will find themselves naturally induced to work harmoniously out of the mere desire for a peaceful and amicable relation between them. And the latter will themselves gain, with the least friction, that salutary experience required for the final step, through their hearty co-operation with the Executive during the period of preparation.

Lastly, the Executive, as it exists now, would be enabled to undergo gradual modifications in its constitution and personnel, so as to admit of the advent of complete Home Rule at the time fixed for it by the Statute, unhindered by any of the vestiges of the present bureaucratic machinery.

There is the subject of dealing with the present Executive so as to arrange for its complete disappearance when the time for Home Rule as laid down by the Statute is to begin with an Executive more natural to it. The questions under this head necessarily concern details only. If the Elected Body on the one hand and the existing Executive on the other feel, as they should, that it is inevitable for both to prepare for the advent of full Home Rule, the problem of transformation could be quite happily accomplished. In regard to all, excepting the members of the Executive Council, the changes and modifications should be carried out from time to time without too

much acceleration or too long delay so that, when the full Home Rule Era begins, there will be no vestige left of the present Public Services, the one source of all the troubles and difficulties that beset India's progress. The instinct of preservation of what thus blocks progress is so peculiar as to make it impossible of being disintegrated, save by relentless work of the Elected Councillors as a body, carrying it out with the utmost discretion, skill and patience throughout. Though, unfortunately, it is not within the power of the British Nation which has created this Leviathan, yet surely it is given to that Nation to endow the Indian people with the potency that will enable them to free themselves from the shackles of the thralldom consequent thereof. There is now an excellent opportunity for the great Nation so to act. It is to be most earnestly wished that that opportunity will not be allowed to slip away but wisely used so as to redound to its undying credit in the pages of future history and for ages to come.

Lastly, a few observations are necessary with reference to the position now occupied by the Head of the Government of India. For the future better government of India, the Governor-General hereafter should be the Head of the Government of India and nothing more. Only then can he, even during the tentative period, justly and rightly carry on the administration of the country. The existence of a relation in the light of an agent on the part of the Head of the Government here, with reference to the Secretary of State, would be utterly incompatible with the due discharge by the former of his great trust, in perfect fairness, to the interests of the Indian people. Nor will there be any possible scope for the application of the theory of an agency on the part of the Governor-General with reference to the Secretary of State under the altered

circumstances. The latter's position will necessarily undergo radical changes, placing him on exactly the same footing as the other Secretaries of State and with no Council to struggle with or to succumb to.

As regards the Viceroyalty, the holder of this office should be a Prince of the Royal family, whenever such appointment and delegation are possible; some one else taking the place only under other circumstances as an exception to the rule. The Viceroy should have no connection with any functions connected with the Government of India vested in the Governor-General. Such a change will be beneficial in more ways than one. For example, only a member of the Royal family who is also the occupant of the Viceregal Throne would be the most appropriate President of the Imperial Council of the Ruling Princes and Chiefs of India, if one is constituted. In connection with this subject, it is indispensable, in order to avoid much confusion of thought, to bear in mind that, so far as the feudatory States are concerned, though geographically within the limits of India yet they are for purposes of Government and administration independent political units and foreign States no doubt subject to the suzerainty of Britain. In other words, they are territories the relation between which and British India is quasi-international in the absence of a better expression. If I may venture to say so, nothing would be much more right and nothing more agreeable to these Princes and Chiefs than the establishment of a Council exclusively their own. From the moment such a notable institution comes into existence, the relations between the ruling Chiefs and the Government of India would undergo a change which cannot but be most acceptable to them and equally advantageous to the territories under the direct control of His Majesty the King-Emperor. The Princes and Chiefs will then be lifted up to the honourable

and legitimate status of feudatory allies of His Majesty and not insensibly drawn down, as is now the tendency, to the mere position of Indian subjects, of the stamp of great landholders who are ever hungering for the titles of Rajahs, Maharajahs and the like, with strange and newly arising aspirations to be endowed with ruling power—survivals of wreckages of past political conditions unfortunately left with no other scope than that of exploiting the tenantry on their estates and unsaddled with any responsibility to be discharged to anyone but themselves. It is not out of place to point out that in the possession of Feudatory Chiefs and Ruling Princes demanding as a matter of both principle and policy the presence of a Prince of Royal blood as the most appropriate representative of the Crown, India stands on a footing which distinguishes it from any of the Self-Governing dominions with their yesterday's history and devoid of nobility of any sort in them, not to speak of Magnates exercising true Royal authority on any of the scales small or great so noticeable in India. The real importance of this distinguishing feature cannot but strike one if he realises that, when the fire of love and devotion to India as their own country burns brighter among the feudatory allies and links them together by way of a moral force, it will enable them to exert an unbounded influence over the future destiny of their dear country. That such a force will continue to grow day by day among them must be clear, if it is remembered that these Ruling Chiefs and Princes are now meeting together in the Imperial Capital, not only to make new friends and learn from each other, but also to arrange for the advancement of their great interests and those of their vast subject populations, under the noble auspices of *Pax Britannica*, with the result that, in due course, these feudatory allies of His Majesty will form in their united

character an asset of incalculable value to the Empire, hardly recognised as yet even by thoughtful students of Indian conditions. In these circumstances, it is not to be wondered at that the Round Table politicians now amusing themselves with preparing toy constitutions for India know little or nothing of it in relation to these hundreds of His Majesty's Feudatory allies. Have they ever thought of the utility of an Imperial League of such allies, formed with the consent and authority of the Sovereign himself and maintained in a high state of efficiency with all it implies, including a fine powerful *militia* entirely indigenous contributed to by the members of the League according to their rank and position? Do they realise what a tower of strength such a League would prove to the Empire itself and even in a measure as a guarantee to the peace of the whole world? With deference, I think they know little of such possibilities. Leaving them to their toy constitutions we, humble subjects of His Majesty, loyal to the core, can do no better than address to that Cabinet which, with prophetic insight and wise courage, have decided to give India Self-Government as the goal, the following prayer: To the policy of trust in the Indian people recently announced, add a policy of equal trust in the Indian Potentates and one of dignity befitting their ruling status; rally them round the August Throne, in a manner hitherto unknown and not even thought of, by knitting them together with a Scion of the Royal Family as Viceroy in their midst and the centre of their common tie, and by such genuine and worthy statecraft hasten the day when India will take its place of equality among the Self-Governing Dominions, all well governed, that will constitute the Federation in the Empire on which not only the Sun never sets but also Peace, Prosperity and Plenty will reign for ever.

IV

IN availing myself of the opportunity so graciously afforded for submitting my views on the subject of constitutional reforms, I think it my duty to offer a few observations on what is called "*Communal Representation*" which bulks so largely in the present discussions on reforms. I would not have ventured to take up any time with reference to this question but for the serious harm which, in my humble judgment, would accrue if the idea underlying the term finds acceptance to any extent whatsoever in the scheme of reform that may be sanctioned.

The term, in question, is, I believe, of a very recent origin dating back only from the instruction issued by the Government of India to the Provincial Governments *anent* the introduction of the Minto-Morley changes in reference to the Legislative Councils. The suggestion about it originated with the former, but received no countenance from anywhere else. Nevertheless the Government of India gave effect to their own suggestion in accordance with the policy which then found favour with them, and applied it in the case of the Muhammadan section of His Majesty's Indian subjects. As I have already observed, no one else throughout the country wanted or liked it. Nay, confining myself to this Presidency, everybody here opposed it including the three notable persons now so loudly asking for it, namely the Rajah of Kurupam, the Raja of Collengode and Mr. Ramarayaningar Garu, all of whom strongly protested against the introduction of such an invidious principle with reference to political suffrage. Since then, the unfortunate example set by the

Supreme Government with reference to the Muslims has taken such hold of the public mind in this country as to completely upset it and create a craze almost on every side and with everybody in favour of such representation and even to claim it as a matter of simple justice. It is time that this mistaken attitude on the part of all bound to help the authorities in arriving at a sound and practical solution of the difficult subject of reform be checked ; and it is because I feel I ought so far as it in me lies humbly to contribute towards the dispelling of the serious misapprehensions that prevail, I beg to submit this supplementary memorandum dealing with the question. In doing so, I venture respectfully to invite special attention to the exhaustive treatment which the subject has received at the hands of the author of a learned treatise to be published by Macmillan & Co., in February next, under the title of *The Future Government of India*, in the course of his interesting Preface to the book. I take the liberty of submitting herewith an advance copy of the Preface. The author's observations, I refer to, will be found at page 7, from para 2 to the end of page 15. In the course of the full discussion devoted to the matter, the author has so thoroughly and carefully considered all the issues arising and so completely exposed the fallacies involved in the idea of communal representation and the mischief likely to flow from allowing it to find any place whatsoever in any scheme of reform as to render all further comment or argument on my part entirely superfluous. The prevalent confusion on the subject will be found really traceable to the confounding of representation of minorities with the so-called representation of communities. Representation of minorities properly such must, of course, involve representation of some definite interests. This was not the case even in regard to the Muslims though perhaps it was sought to be treated

as such. In reality, however, it was nothing more or less than a pure case of communal representation in the very broad and hardly justifiable sense of all sections of Muhammadans throughout India being regarded as constituting one minority community.

