



THE
CRITIC
A Bi-Monthly

Vol. I

Thursday, 9th December 1909

No. 1

OURSELVES

We are born and we intend to live. We do not apologize for our birth. Whether we survive long or not the future will show. If honest zeal in the service of the public deserves encouragement, then we have no apprehensions for our longevity. We shall not advocate the cause of any particular faction, party or individual. Our aim will be to promote the common interests of the country. We expect every one to read our paper. We shall endeavour always to put forward the truth without fear or favor. With the characters of private men we have no concern. In relation to questions of public importance, however, we shall not hesitate to examine the character and conduct of 'public men' and men in office, though we shall try to do it with all necessary care and scruple.

The duty of the critic may be to find fault, still it is not beyond his province to give praise where it is due. It has become the fashion nowadays to be always finding fault with everything around us, especially with the Government and some critics even go to the length of attributing unworthy motives to the actions of Government. We shall consider it our duty therefore, whenever occasion arises, to counteract, through our columns, the evil results of such unreasonable and unwarranted criticisms in the best way we can.

We shall welcome to our columns, contributions, moderate in view, temperate in language and true in substance.

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We sincerely welcome Their Excellencies the Viceroy and Lady Minto to our Presidency.

His Excellency has been instrumental in giving us, what we consider a real and practical Magna Charta. It is to the generous that we go often and often for help. The miser is left severely alone. We respectfully approach His Excellency with a suggestion which, we venture to hope, will commend itself to him.

We think that the appointment of an Indian as Private Secretary to His Excellency would be highly beneficial to the interests of our country, especially at this juncture, and would be greatly appreciated by the people. The necessity for such an appointment will not be denied. However solicitous our rulers may be to do the right by us still there are certain matters in which they may easily and unwittingly err, unless they have the assistance of some Indian.

In the ordinary nature of things it is impossible that our rulers, especially our Governors-General and Governors, should know us well. They have to depend upon information supplied to them by some officers under them who, in their turn, get it from their subordinates and so on till we go down to the ordinary constable perhaps, in a matter of such importance as the deportation of a person. Here we think that an honest,

disinterested Indian Secretary will be of immense help to the Government.

We are fully conscious of the fact that it will be a very difficult matter to choose an Indian Private Secretary possessed of all the necessary qualifications for such a confidential and responsible position. But we are confident that when the time comes the man will be found. We give leave to bring the above suggestion to the favourable consideration of His Excellency the Governor of Madras as well.

Mr. N. Subramanyam, the Administrator-General of Madras, is a candidate for a seat on the Madras Legislative Council in behalf of the Municipality. Without recourse to any high legal authority we say that there is nothing in the Regulations to prevent a *quasi* official or even an official from being elected by the Municipality. But what we are surprised at is that Mr. Subramanyam, who is himself a nominated commissioner, should ask the Commissioners to give up their valued privilege of electing a non-official and elect him instead.

The result of such a choice by the Municipality will be that the number of non-official members will be reduced by one, unless His Excellency the Governor of Madras nominates a non-official. For, the rules about nomination say "Members nominated by the Governor, shall not exceed twenty-three in number, of whom not more than sixteen may be officials." That is, the nominated officials shall not exceed 16 but they may be less.

We fail to understand why we should expect His Excellency to forego the right to nominate 16 non-officials. We have full confidence in the good sense of our Municipal Commissioners. A bird in hand is worth two in the bush, the old

saying says. Their plain duty is to elect a non-official who will be a real representative of the Board. We would suggest to Mr. Subramanyam that he should relieve the awkwardness, in which some of his commissioner-friends must have been placed by his candidature, by withdrawing. He may secure a seat by nomination instead.

Now, turning to the other candidates. On the last occasion, if we are not mistaken, there were three candidates of whom in the first ballot Mr. Sivagnana Mudaliar stood first, Dr. Nair second and Mr. Theagaroya Chettiar last. For some unaccountable reason, Mr. Sivagnana Mudaliar, who was at the top, withdrew. It was suggested at the time that, if Mr. Theagaroya Chettiar, who was the bottom man, was eliminated, all his votes would have gone solidly to Dr. Nair, who would thereby have been elected; and that to prevent such a result Mr. Sivagnana Mudaliar withdrew, but on the understanding that that elected commissioner should similarly oblige him at the next election.

That the candidate who topped the list withdrew and that he who was last was elected are facts beyond doubt. As for the suggestion quoted above it is for the gentlemen concerned to contradict it or not. We are sure that the withdrawal must have been induced only by highly proper motives and we see no reason why the candidate should not have withdrawn, if he chose to do so, even though he headed the list in the first ballot.

If the said suggestion were true that the withdrawal was on the understanding that at the next election there should be a return of the compliment, we admit that we are curious as to what is really going to happen. For, the then elected

member has not sat for the full term. Will he be bound by the compact to oblige his friend now or will he be entitled to say that, as he had not sat for the full term, the previous understanding does not hold good? These are questions which we find difficult to answer and we shall leave it to time to solve them. To complicate matters there is yet another candidate *viz.* Mr. Savage.

THE COUNCILS REFORMS.

We feel deeply grateful to His Excellency the Viceroy for the Reforms which he, with the approval of the Secretary of State for India, has been able to introduce in the system of our Government. The Rules and Regulations under the Reform scheme have been subjected to much criticism by the papers in India. Before dealing with such criticisms in detail, we would like to state that in our opinion we have gained one important concession under the new scheme which, we regret, is not appreciated at its real worth. We refer to the real franchise that has been conferred on us.

Under the old system there were elections, so-called. But such elections were mere recommendations to the heads of the various provinces; for, without their approval the elected candidates were not entitled to take their seats in the Council. Now, that unsatisfactory rule is done away with and an elected candidate takes his seat by virtue of his election alone. We shall be wanting in gratitude if we do not candidly acknowledge that this is a concession which we, for our part, did not expect. It is therefore the more welcome.

The Resolution itself admits that many of the details of the scheme may be found on trial to be unsatisfactory or capable

of improvement. We thank the Government for the spirit of such frank expression of their consciousness of defects. We can wait till such defects are noticed and cured. That process may take time no doubt, but we can afford to wait.

But there are certain other features of the new Reform which, we regret to say, have given room to reasonable dissatisfaction. We shall confine ourselves to this Presidency. One of the said features, to which we are constrained to take objection, is the fact that poor Madras has not been as liberally treated in the matter of representation by election as Bengal and Bombay or even the United Provinces. Why Madras has deserved such treatment passes our comprehension.

It is an undoubted fact that the Hindus are in an overwhelming majority and what principle has led the Government to deal less fairly with them than with Mahommedans is not clear. The latter have received more than their legitimate share. They are given the right to elect two members from the Districts and one from the Presidency Town with a separate electorate all by and for themselves. This is a second objectionable feature.

Then, franchise is extended to Mahommedan Graduates of more than three years' standing but withheld from Hindu Graduates. This is an invidious distinction which is not unlikely to create heart-burnings and which the Government might have avoided.

Again, the Government seem to have gone out of their way, to confer the right to take part in the election of Mahommedan members of the Imperial and Provincial Councils, on the Trustees of Aligarh College. By all means let them

have it. But a similar concession to the Trustees of the Pachayappa's College and other like institutions would have been highly appreciated by the public.

Many 'leading men' and Indian papers have remarked that the non-official majority in the Provincial Councils is so only in name. That is to say, the non-officials are taken to become practically officials on the strength of their nomination by Government. If such be the case whose is the fault? The Government naturally do nominate persons who have got a reputation, whether deserved or not is another matter, of being leaders of the people and if such members do not stand up for the cause of the people why blame the Government?

We shall not be so uncharitable as to think that the Government expect their nominees to always vote with them, even against their conscience and inclination. If such nominees should choose to think that the obligation they are under to Government for having nominated them makes it incumbent on them to side always with the Government, we have every reason to be ashamed of our so called leaders and public men.

With regard to some of the disqualifying clauses too there has been some adverse criticism. Most of all, objection is taken to the clause which relates to the reputation and antecedents of a person aspiring to become an 'Honorable'. Surely there is the power vested in the Viceroy to remove the disability by an order in Council. It is idle to think that the right will not be exercised by him in any deserving case.

Then there are the dismissed government servants, and convicted persons. We fail to see how these classes could have

been left out of the category of ineligible persons. Here also there is a similar power as mentioned above reserved to the Viceroy. As for the debarred legal practitioners, there can possibly be no question that the class was properly included among the ineligible.

The results of the scheme briefly are:—

1. The Councils have been greatly enlarged.

2. All classes and interests have their own representatives except that Mahom-madans have had exceptional treatment and that the medical profession has been left out of count.

3. Elected members take their seats on the Councils by virtue of their election.

4. Except in the Imperial Council there is a non-official majority in all the Councils.

5. Better scope for criticism and discussion than formerly.

Defects in the minor details of the scheme abound no doubt, which we are told will be amended where found necessary. So let us not look a gift-horse in the mouth too closely.

‘The *Englishman*’ would have it that the introduction of the Reforms was the “hurried result of the poisonous agitation of Indian seditious, acting upon the diseased sentimentalism of British Radicals.” That is Anglo-Indian.

The ‘*Mahratta*’ considers that the appointments of Messrs. Amir Ali and Ali Janm were due to the fact of their being political partisans though it is pleased to call the latter less violent than Mr. Amir Ali. This is Indian.

Can neither of these papers deem it worthy to be more charitable at least, if

nothing else? Both impute unworthy motives to the authorities. Is it a case, we wonder, of great (?) minds thinking alike? It is immaterial to us what the *Englishman* says, but we are really sorry that an Indian paper should doubt the honesty and good motives of the Government. Even a criminal is presumed to be innocent till he is proved guilty. Does not the Government deserve better treatment? If we wish to be respected by others we must respect them. Let us not think that we are separate from the Government and that the Government is separate from us. Let us be honest in our criticisms. Let us be courteous and chivalrous even to our enemies—and the Government is not our enemy—and then we may rest assured that our opinion will be respected and if possible acted upon.

THE NEXT SHERIFF OF MADRAS.

Madras November 18.

Rao Bahadur M. Venkatasawmy Naidu has been appointed Sheriff of Madras for the ensuing year and the appointment has given a general satisfaction. He is a shrewd businessman and has rendered many public services in Madura and Madras. He is a descendant of the Kandian family which was once a ruling family in Ceylon.”

We take the above from the *Amrita Bazaar Patrika* of the 21st November last. So far as we are aware Mr. Venkatasawmy Naidu belongs to the Naidu caste and is a native of Madura.

We also knew that he was a Private Secretary or held some such position under the late Raja of Ramnad. It was therefore a revelation to us to be told that he is a scion of the ancient royal family of Kandy, Ceylon. We should like to be enlightened on the point,

Captain D. J. Macaulay of the Indian Army delivered a lecture on "India in Imperial Defence" under the auspices of the Central Asian Society, London, on the 11 of November last. In the course of his lecture he said that India had a greater interest in the development of the Pacific than the other units of the British Empire. Though he considered that India could not build and maintain a fleet of her own, yet he said that India should maintain a fleet given her and owned by the self-governing parts of the Empire in partnership.

The question to be considered is whether India is in a position at least to maintain a fleet though, out of benevolence, the self-governing colonies might give it to her. It is not one or two ships but a regular fleet that will have to be maintained if it is to be of any practical use. Now what is to be the bill for such maintenance? It is just a bagatelle of two to two and a half million sterling per annum! We should like to know where even such a tifle is to come from.

In a letter to Mr. Harold Lloyd, a prospective union candidate, Lord Charles Beresford says that he is most anxious about the future of the British Empire. The picture he draws is gloomy and full of forebodings. If the country does not wake up to the necessity of adequate naval defence shortly, he goes to the length of saying that the British Empire will be a thing of the past. This is one version.

On the other side there is an equally high official *viz.*, Sir Percy Scott, asserting that the British Navy had never been in such an efficient state as it was at present. According to this authority enormous progress had been made during the past

years and all the needed reforms had been effected. He characterises the allegations made by the opposite side as scandalous imputations on the honesty and capability of the Board of Admiralty. We sincerely hope that Lord Beresford is mistaken in his pessimistic views.

We are glad to learn that Dr. T.M. Nair intends offering himself for election for one of the seats in the Imperial Legislative Council to be filled by election by the non-official members of the Madras Legislative Council. We should have preferred to see Dr. Nair first become a member of our Local Council before going to the Imperial. Not that he would not do useful work there but that a man of his type would be a real power to represent the people in the newly formed local Council.

We see from a Calcutta telegram to the Madras Standard that Mr. Surendranath Bannerjee who will be disqualified to be elected to the Council owing to a disqualifying clause in the Regulations, has had the disqualification removed at the instance of the Government, but that he has decided not to stand having regard to public feeling in the matter. The order of the Government clearly shows that, in their opinion, he is a proper person to take a seat on the Council. Under the circumstances we regret very much that he and his friends should have thought fit that he should not be a candidate.

With regard to the struggle that is being carried on by our countrymen in Transvaal it is indeed a great satisfaction to us to learn of the munificent gift of twenty-five thousand rupees towards the Transvaal Relief Fund. We hope that our countrymen, now that the matter has reached a stage when more than mere

expression of sympathy is needed, will not fail to contribute whatever they can towards the Fund. The Indian South African League has now appealed to the public for subscriptions. All payments are to be made direct to Mr. Moulana Abdus Syban, Merchant, Godown Street, Madras and communications addressed to Secretaries "Indfan South African League, Madras," 10, Esplanade, Madras.

Will the President of the Corporation of Madras and our worthy City Fathers permit us to ask them the reason why the address of welcome to His Excellency the Viceroy is postponed to the third day after His Excellency's arrival? They represent the people and as such their address of welcome should be the first. Instead of that, we see from the notices in the papers that there is a public arrival of their Excellency the Viceroy and the Countess of Minto at the Banqueting Hall at 8.30 A.M. this day and more than half a dozen addresses are to be presented besides other public functions this day and tomorrow. All these take place before the City Fathers' address of welcome. There is something topsy-turvy about this.

The Caledonian Society of Madras held its Annual St. Andrew's Dinner at the Moore Pavilion, People's Park on the night of Tuesday the 30th November last. Mr. W. B. Hunter presided and proposed the toast of "The Land we Live in." In the course of a most felicitous speech he dwelt upon a variety of questions. On the question of Railways he remarked that the building of railways has contributed more than any other thing towards the prosperity of India and regretted that Madras, being far away from the seats of the mighty, seldom got a fair share of the allotment.

With regard to Irrigation he said that Madras fared comparatively better. Next dwelling upon the shipping facilities he said that though still water in the harbour might be assured when its old east entrance was closed, yet that what was required was wharfs for direct landing of goods from the steamer. Other matters he dealt with were finance, agriculture, &c. Talking of matters Parochial 'Kelly' was not forgotten nor were the conditions of our roads and the purity (?) of our water supply. All this is not what we intended to bring to the grateful notice of our countrymen but, what he says of us which is as follow:—

"And what shall I say of India's sons and daughters? A modest Scot, when forced to express an opinion on something of his own of which he is really proud, will often say:—"*It micht hæ been waur.*" Gentlemen, I think in our heart of hearts we are really proud of our Indian fellow citizens and can, therefore, modestly say:—"*They micht hæ been waur.*" This I will assert without fear of contradiction, that there are in India to-night celebrating St Andrew's Day, a finer set of Scots than could be found in the Land o' Cakes, that their good qualities, if not actually acquired here, have gained strength by their sojourn in this land. He is a poor Scot indeed who has not assimilated in part at least some of the many fine qualities for which the natives of this land are famed, and he his much to be pitied if he cannot count among his friends here many who do not hail from the West." Bravo Sir, you are noble and generous. We do not want either self-government or Swaraj. Let Britain only send us a few hundreds of such nature's nobles and then she will have to search for sedition with a sieve and even then not find it, but find instead

deep affection, reverence and gratitude in the hearts of the people towards our rulers.

According to the *Pioneer* Mr. Norton, in the course of his arguments in the Alipore bomb case Appeal, seems to have pointed out that if the confessions of certain of the accused in that case were true, then the men who had been convicted of an attempt to wreck Sir Andrew Fraser's special train in 1907 were innocent and asked the Court to move the Local Government to set aside the convictions. This Sir Lawrence Jenkins declined to do, but said that he had no doubt that the Government will make a careful enquiry into the matter. Now the six men who were tried for attempted train-wrecking were sentenced one to ten years' transportation and the others five to seven years' rigorous imprisonment. According to the Crown Prosecutor himself these men are innocent. Then how came they to be convicted? And on what evidence? We have the greatest confidence in the integrity and conscientiousness of our English Judges. How then could one of such Judges have come to convict those poor men unless deliberately false evidence had been concocted and placed before him? And whose is the concoction? Our own countrymen's! We hope that the Government will institute a searching enquiry into the matter and punish the guilty with the utmost rigour of the law.

We are glad to learn that the District Magistrate of Ahmedabad has offered the large sum of Rs. 5,000 for information leading to the arrest of the person or persons concerned in the dastardly attempt to throw a bomb at the Viceregal carriage at Ahmedabad. Though it is possible that in such a huge crowd that must

have been present at the time, the wretch who made the attempt was able to slink away unnoticed, yet it is equally possible that he had been spotted by a few at least of the persons in the neighbourhood. We sincerely hope that if there be any such, their cupidity, if not their sense of justice, will now make them speak.

SOME SUGGESTIONS TO OUR GOVERNMENT

(1) We beg that His Excellency the Governor will be pleased at this juncture to appoint an Indian as his assistant Private Secretary. In our humble opinion an Indian Private Secretary will be of great practical help to him in coming to proper decisions in matters Indian.

(2) Mr. Vija Raghava Charriar of Salem, we regret, is one of those coming under the category of ineligible. He has done very good work on the council in the past and he is not too old yet to work for us Indians. We shall feel highly grateful if His Excellency would take steps to have Mr. Charriar's disqualification removed. But as the removal of the disqualification will come in too late now for him to stand for election, would it be too much to ask His Excellency to exercise his power of nomination in his behalf so that we may have the benefit of having him as a member of the new council?

(3) The Trustees of the Aligarh College have been given certain privileges and we submit that His Excellency will be pleased to make proper representations to the Government of India, and cause similar privileges to be conferred on the Trustees of Pachayappa's College, Madras.

(4) The order of the Government that Government Pleaders and Public Prosecutors are not prohibited from standing

for election to the Legislative Councils by reason of holding those offices seems, in our humble opinion, to have been passed without due consideration and we pray that the Government will, on reconsideration, cancel their order and declare the said officials ineligible for election.

PUBLIC PROSECUTORS AND THE ELECTIONS:

We have no hesitation in saying that our Government has been ill advised in their ruling that Public Prosecutors and Government Pleaders are not officials and that they can stand for election to the Legislative Councils. We are sure that the Government will, in the light of the strong objections raised on all sides, reconsider their decision and cancel that order. But supposing for a moment that the order is not cancelled or that there is some delay in its cancellation then why should we fear that the people who have been given the franchise will elect those officials in preference to a non-official? The matter is in their own hands. If they think that such an official will not properly represent them on the council their course is plain. Let them vote for the non-official and see that he is elected. If such non-officials do not exercise their right in favor of the rival non-official candidate, in spite of their disapproval of the official's candidature, we think it will be far better [that we had no franchise of any kind whatever and that the Government should nominate all the members of the council. We may as well frankly admit that we are not fit to obtain franchise yet.

THE LATE Mr. ROMESH CHUNDER DUTT.

It is with extreme regret that we have to record the death of Mr. Romesh Chunder Dutt on the 30th of November last. He was a member of a highly talented family. Toru Dutt, his cousin, is well known as an accomplished English writer. He was the third in the list of successful candidates for the Indian Civil Service Examination held in 1869. He had the unique honor of being the first Indian who was appointed a Commissioner of a Division. After his retirement from service he took a very prominent part in Indian politics and presided over the Indian National Congress of 1899.

VAKILS ON THE ORIGINAL SIDE OF THE HIGH COURT.

BY

MR. M. K. RAMASAWMY IYER.

Attorney-at-Law.

For the purposes of this article it will suffice to begin from the time when there were two classes of Courts in India. The first of these, the English Courts were established in the Presidency Towns under Charters granted by English sovereigns and originally exercised jurisdiction only over Englishmen residing in India, whether within or without the Presidency Towns and administered their own laws, orders and ordinances. But subsequently they were empowered to exercise jurisdiction also over native subjects living within the Presidency Towns. These Courts, being English from their very inception, knew nothing of a single agency and recognized only the double agency of Attorneys and Barristers. Just as in England in these English Courts of the Presidency Towns, Barristers had the exclusive right of audience in the highest

Court called the Supreme Court. While the attorneys had also the right of audience in the inferior Courts (Court of Requests and Choultry Courts) and in the Insolvency Court. This practice continued in the English Courts of the Presidency Towns till 1861.

Secondly :—The Indian Courts were all established for the administration of Justice in the Mofussil under the Regulations made by the Governor-in-Council. Prior to the establishment of these Courts the administration of justice was effected by Mahomadan Courts. In the said Mahomadan Courts the legal practitioners were known as Vakils. When the British became the rulers they abolished the Mahomadan Courts and established in their stead other Courts under the said Regulation of the Governor-in-Council. *viz.*, Zilla Courts, Sudder Adawlut, Faujdary Adawlut &c. These Courts recognized and continued to recognize the Vakils, the term Vakil itself being a Hindustani, and not an English, term. Originally Barristers and Solicitors did not practise in these Mofussil Courts and the remuneration of these Vakils in the Indian Courts was 5 per cent *ad valorem*, while that in the English Courts for Solicitors was dependent upon the quantity of work. In 1846, for the first time, the Barristers were allowed to practise as Vakils in the Indian Courts, getting 5 per cent. *ad valorem* (Act I of 1846). In 1853 Solicitors were also allowed to practise in the Indian Courts as Vakils getting 5 per cent. In this state of affairs an Act for establishing High Courts of Judicature in India was passed under which the present High Court was established abolishing the previous Supreme and Sudder Courts. By Section 11 of the said Act, the then existing provisions applicable to the

Supreme Courts were made applicable also to the High Courts. By Section 15, the High Courts were given the power to settle tables of fees to Attorneys alone and to no other practitioners.

By Section 9 of the Letters Patent of 1865, the High Courts were empowered to approve, admit and enrol Advocates, Vakils and Attorneys who were authorised to appear, plead and act for the suitors of the said Courts according to the rules and directions to be made by them.

By s. 10 of the said Letters Patent the High Courts were empowered to make rules for the qualification and admission of proper persons to be Advocates, Vakils and Attorneys. But these two sections did not empower the High Court to make rules inconsistent with the provisions of law. On the other hand s. 44 of the said Letters Patent states expressly "all the provisions of these Our Letters Patent are subject to the Legislative power &c." Hence whatever rules the High Court may pass, they must be subject to and in accordance with the provisions of law.

In Madras, till 1881, Act I of 1846 and Act XX of 1853 were in force and by the force of these enactments Barristers and Attorneys of the High Court were allowed to practise as Vakils on the Appellate Side of the High Courts and in all the Subordinate Courts, while there was no corresponding provisions in law enabling Vakils to appear on the Original Side of the High Court. By Act XX of 1865 Vakils were expressly prohibited from appearing on the Original Side of a Chartered High Court. One of the provisions of the said Act XX of 1865 empowered the Local Governments to adopt, if they pleased, the whole and not portions of the Act. The Government of Madras did not want to adopt the whole, but wanted to adopt only certain portions

and in 1879 they requested the Governor-General in Council to re-enact the said Act empowering the Local Governments to adopt portions of the Act at their option. This was so done and the re-enacted Act is Act XVIII of 1879. The Madras Government adopted portions of the said Act in 1881. Amongst the portions adopted were sections 4, 27 and 38. By section 38, it is clear that sections 4 and 27 are applicable to the High Court practitioners. By section 27 the High Court is empowered to award fees to practitioners everywhere except the Original side of a chartered High Court. Section 4, which deals with two classes of practitioners of a chartered High Court *viz.*, Barristers and Vakils, prevents the Vakils only from appearing on its Original Side, Civil or Criminal, in a Presidency Town. Section 15 of the Charter Act empowers the High Court to settle tables of fees only to Attorneys and to none else. Thus it is abundantly clear in law that the High Court has no power to allow vakils to appear on its Original Side or to give them fees there.

THE SYDNEY BULLETIN.

A paper after the model of the weekly paper named above, would be now an impossibility in this country. But it was attempted once here and with phenomenal success. The "Bulletin" is a paper of Australia which every body reads, every body fears and every body respects. Even those who hate it consider it a most useful publication. The "Bulletin" is no respecter of persons, it never uses dubious language. It always goes straight to the heart of the matter. It hits the nail hard and square on the head, and it does not care where the point is driven, into the heart of the most popular citizen or the cabinet minister himself.

But yet the minister reads the paper carefully from the top to the bottom. It is to him a beacon, a safe guide, an honest witness. Does the minister need information? The police supplies him with some, but the rest, that which is beyond the reach of the Police, is supplied by the "Bulletin." When there is a sensational incident the officials have a version, but the "Bulletin" has almost invariably one of its own, and the minister finds it safer to believe the newspaper than his own subordinates. And how does the "Bulletin" get such information, even those hidden from the lynx eyes of the Police? It is because the "Bulletin" has so hypnotised the representatives of the people by its stern honesty, piercing intelligence, vast information, thorough analysis and keen wit, that they consider it an honor to see their names, even "*nom de plumes*," in a corner of its columns. Does the "Bulletin" pay for such information? No! Nothing of the kind. Just examine the column of "Notice to Correspondents." And there you will see that in no paper in the world are the correspondents so rightly handled as in the "Bulletin."

One correspondent who makes a silly remark is thus disposed of—"C. D. should consult a medical man." "A Patriot" is told "to give up rhyming when he writes poetry." Another is told to "show the crown of his head," and yet another is informed that his contribution is "unspeakable." All the same the poor correspondents do not take offence; they admit the justice of the editorial remarks and try again.

The greatest service to Australia, perhaps, of the "Bulletin" has been its work in moulding national sentiment. Under the influence of its inspiration the Australians, who were only settlers previously

are getting to be a nation. Previously the horse-breeder did not care what the sheep-farmer thought or did, but now a national sentiment sways the diverse people of diverse nationalities, that inhabit the continent. In short, previously it was for his owing calling that every one worked, now it is for the country. Can such services be ever adequately measured or repayed?

We have said above that precisely such an attempt was made in India, and that also by a weekly paper. And its success was phenomenal. It owed its success much to the attitude of the Government. The Government was not then felt to be a distinct entity by the people, and the Government also did not feel itself as something separate from the people. In India in those days the critic, nay, even the bitterest critic, was considered a friend, who meant well. The critic was honoured and even rewarded. The critics, on their part, in spite of the bitter language they used, never doubted the honesty and good motives of the Government.

From the time when the Queen assumed the administration of the country the Government was trying to raise itself in the estimation of the people. The highest position attained was during the Government of Sir John Lawrence. It was then the people utterly forgot that their rulers were aliens in everything. The Government opened its coffers for the purpose of educating the people, high and low. If aided schools were established in all important villages, an Indian Inspector was appointed especially for the education of the masses. And trial by jury, which then obtained, gave the supreme power to the people. The Government had no power to punish a man, which it hated.

But suspicion entered into this relation-

ship between the Government and the people. It entered when Sir J. Strachey aimed a blow at English education and Sir James Stephen introduced his reform (?) of the criminal administration by which the people were deprived of jury trial. The suspicion entered like a wedge and it day by day widened the breach. And when the opening had been made sufficiently wide, sedition peeped in. And why was the "Bangabasi" prosecuted for sedition? It was for the measure of the Age of Consent. If there had been no such measure, there would have been no prosecutions for sedition. And pray, if the people objected to that silly measure, had they any reason for it? Was it a success? Is it not a dead letter now? This shews that the people were right in their condemnation of the measure. The more the people objected, the more the measure became "a settled fact."

And in the same manner if the Province of Bengal had not been partitioned the country would have now presented, the same peaceful appearance as it did twenty years ago. Gradually it came to pass that the Government lost all confidence in the people. And this state of things proved disastrous in many ways. It killed the independent press of the country and made a "Bulletin" impossible here. The press is the only institution in the country which enabled the the Government and the people to come into touch with each other. But this usefulness of the press was totally destroyed. We know that an important newspaper engaged the services of a lawyer for the purpose of scanning every line and word that was to appear in its columns to see that it didn't smell sedition. The writers of course had no sedition in their hearts, but yet they did not feel

safe. Now fancy those Englishmen who founded a new Empire and administered its affairs treated all danger from sedition with scorn. But not so those administrators who are now only enjoying the fruits of the labours of the early Empire-builders! *The Amrita Bazaar Patrika of 21st November 1909.*

THE COUNCILS REFORMS

The Indian Councils Act of 1909 was brought into operation by the Governor-General in Council on the 15th November last and the rules and Regulations relating to the nomination and election of the members of the enlarged Legislative Councils were also published on the same date.

RESOLUTION BY THE GOVERNMENT OF INDIA.

This Act marks the completion of the earnest and prolonged deliberations that were initiated by the Viceroy more than three years ago when he appointed a Committee of his Executive Council to consider and report on the general question of giving to the peoples of India a larger measure of political representation and wider opportunities of expressing their views on administrative matters.

2. The various stages of inquiry and discussion which followed need not be reviewed at length. In the Home Department letter of the 24th August, 1907, the Government of India put forward certain provisional and tentative proposals and invited the Local Governments to submit their matured conclusions after consulting important bodies and individuals representing the various classes of the community. The voluminous opinions elicited by that letter were fully dealt with in the Despatch which the Government of India addressed to the Secretary of State on the 1st October, 1908, and Lord Morley's Despatch of the 28th November following. Since those papers were published the Government of India have been engaged in communication with the Secretary of State in working out the principles accepted by him, and the scheme finally adopted for the future constitution of the Legislative Councils is embodied in the Indian Councils Act and in the Regulations which are published to-day.

The Governor-General in Council will now

proceed to state briefly the extent and nature of the changes introduced and to indicate in what respects they differ from the proposals contained in the papers already published.

(3) The maximum strength of each Council is fixed by the first schedule of the Act. Excluding the head of the Government and the Members of the Executive Councils, it varies from 60 for the Council of the Governor-General to 30 for the Councils of the Punjab and Burma, the number for each of the other five Provincial Councils being 50. The actual strength of each Council is determined by the Regulations. The statutory maximum will at present be worked up to only in the Imperial and Bengal Councils, but, as will be seen from the annexed statements, the numbers are in every case slightly larger than those shown in the Despatch of the 1st October, 1908.

(4) For the reasons given by the Secretary of State in his despatch of the 27th November, 1908, there will continue to be a majority of officials in the Governor-General's Council, but the Regulations provide not only that there may be, but that there must be, a majority of non-official members in every Provincial Council. The following statement, from which the head of the Government is in each case excluded, shows the effect of this great constitutional change on the composition of each Council. It will be within the power of a Local Government to increase the non-official majority by nominating less than the maximum member of officials and substituting non-officials, but that majority cannot be reduced except to the limit.

THE COUNCILS.

	Officials.	Non-officials.
The Governor-General's Council.	35.	32.
The Provincial Councils.	Madras 19.	26.
	Bombay 17.	28.
	Bengal 17.	31.
	United Provinces 20.	26.
	Eastern Bengal and Assam 17.	23.
	Punjab 10.	14.
	Burma 6.	9.

These figures relate to the ordinary constitution of the Councils and leave out of account the two experts who may be appointed members of each Provincial Council when the legislation in hand is of a nature to demand expert advice. If

these members are non-officials, the majority will be strengthened and even if both are official it will not be entirely neutralised. The strength of the non-officials majority varies with local conditions.

REPRESENTATION OF COMMUNITIES.

(5) Special provision has been made for the representation of the professional classes, the landholders, the Mahomedans, European Commerce and Indian Commerce. The first of these interests will be represented on the Governor-General's Council by the members elected by the Provincial Legislative Councils and by the District Councils and Municipal Committees in the Central Provinces and on the Provincial Councils by the representatives of the District Boards, the Municipalities, the Corporations, the Presidency towns and the Universities. The others will be represented upon all Councils by members elected by special electorates or nominated under an express provision of the Regulations. The representative of the Bombay Landholders on the Governor-General's Council will be elected at the first, third and subsequent alternate election by the landholders of Sind a great majority of whom are Mahomedans, while at other elections he will be elected by the Sirdars of Gujerat or the Sirdars of the Deccan, a majority of whom are Hindus. Again the landholders of the Punjab consists of about equal numbers of Mahomedans and non-Mahomedans and it may be assumed that their representative will be alternately a Mahomedan and non-Mahomedan. It has accordingly been decided that at the second, fourth and succeeding alternate elections, when these two seats will presumably not be held by Mahomedans, there shall be two special electorates consisting of the Mahomedan landholders who are entitled to vote for the member who represents in the Governor-General's Council the landholders of the United Provinces and Eastern Bengal and Assam, respectively. In some Provinces there are special interests, such as the tea and jute industries in Eastern Bengal and Assam and the planting communities in Madras and Bengal, for which special provision has been made. The representation of minor interests and smaller classes will be provided for by nominations made from time to time as the particular needs of the moment and the claims of each community may require,

NOMINATED MEMBERS.

(6) In the Despatch of the 1st October, 1908, it was explained that some of the seats there shown as elective might at first have to be filled by nomination, pending the formation of suitable electorates. Further inquiry has shown this course to be unavoidable at present in respect of (1) the representative of Indian Commerce in all Councils, except that of the Governor of Bombay; (2) the representatives of the landholders and Mahomedan community of the Punjab on the Governor-General's Council; and (3) the representative of the planting community on the Bengal Council. The Regulations, however, provide that a member must be nominated to represent each of these interests, and it is the intention of the Governor-General in Council to substitute election for nomination wherever a workable electorate can be formed.

THE ELECTION REGULATIONS.

(7) It will be seen that the Regulations have been divided into two parts, first the substantive Regulations, which deal with all matters of general application, and secondly, a series of separate schedules defining the constitution of each electorate and prescribing the electoral procedure to be adopted in each case.

(8) The qualifications required for both candidates and voters are specified in the Schedules but the disqualifications which apply generally, are given in the Regulations. The only voters disqualified are females, minors and persons of unsound mind; but for candidates wider restrictions are obviously necessary, and these are set forth under nine heads in the Regulation.

(9) The last of these provides that no person shall be eligible for election if he has been declared by the Government of India or the Local Government to be of such reputation and antecedents that his election would, in the opinion of the Government, be contrary to the public interest. The Act of 1892 laid down that an elected candidate must be nominated by the head of the Government before he could take his seat on the Council. It thus gave power to exclude a candidate whose presence would bring discredit upon the Council and although this power was never exercised it served yet useful purpose in deterring such persons from coming forward for election. If the dignity and representative character of Legislative Councils are to be maintained, there must be some means of excluding unworthy candidates.

though recourse to it would be of rare occurrence and the disqualification imposed would not necessarily be permanent.

(10) In accordance with the practice of the House of Commons and of other British Legislatures, Members of the enlarged Councils must, before taking their seats, make an oath or affirmation of allegiance to the Crown.

(11) If a candidate is elected for more than one electorate, he is required by regulation 9 to choose for which electorate he will sit. The votes recorded for him in any electorate for which he decides not to sit will be deemed not to have been given and the seat will go to the candidate who would have been elected but for such votes. This is in accordance with the procedure prescribed for ward elections in the city of Bombay, and it has the advantage of rendering a fresh election unnecessary.

(12) The normal term of office has been extended from two to three years, but a Member elected to fill a casual vacancy will sit only for the unexpired portion of the outgoing Member's term. In the case of electorates which elect by rotation, to deprive such a constituency of its representations for what might be a considerable portion of the term allotted to it would be unfair, while to allow the constituency of the outgoing Member (who might have sat for nearly the full term) to elect another Member for a further period of three years would be open to still greater objections. The provision is also required to secure the retention of the advantages of cumulative voting in two member constituencies.

It has been expressly laid down that corrupt practices shall render an election invalid. There is no such provision in the existing Regulations, but the great extension of the principle of election and the probability of keen contests render it desirable to provide safeguards against the employment of improper practices. The definition of corrupt practices is taken from the Bombay District Municipalities Act. It covers false personation on the part of a voter and the use of threats of injury, as well as the actual purchase of votes by the candidate or his agent.

(13) Any person who is qualified as a voter or a candidate may question the validity of an election and apply to the Government of India or the Local Government, as the case may be, to set it aside. After such enquiry as may be necessary the Government may declare whether the candidate whose election is questioned was duly elect-

ed, or whether any, and, if so, what other person was duly elected, or whether the election was void (Regulation 16). An election will not, however, be set aside on the ground of minor irregularities which do not affect the result (Regulation 15).

ELECTORAL PROCEDURE.

(14) In most cases the electorates are sufficiently defined in the Regulations. Where more detailed information is necessary, this has been given in the Schedules prescribing the electoral procedure. Where the electorates are scattered, as is the case with the landholders and the Mahomedans, provision has been made for the preparation and publication of an electoral roll containing the names of all persons qualified to vote. *After the first election this roll will be brought under revision from time to time when claims and objections will be decided*, but the roll actually in force at the time of any election will be conclusive evidence on the question whether any person has not been elected. It has not been possible to allow claims to be made or objections to be taken in respect of the first roll. The qualifications upon which each roll is based could not be announced until the Regulations had received the approval of the Secretary of State and no revision of the roll could be undertaken until the new Act had been brought into operation. At least two months would have to be devoted to the disposal of claims and objections, and it is probable that even at the end of that period some cases would still be pending. It would thus be impossible to constitute the Provincial Councils before March, 1910, and the Governor-General's Council could not assemble before the end of that month or the beginning of April. The consequent loss of the whole of the Legislative season would cause so much inconvenience that it will be necessary to defer putting the Act into operation and to postpone the assembling of the new Councils until the Session of 1910-11. The Governor-General in Council is sensible of the objection to holding an election on a register which has not been subjected to the test of revision, but he is convinced that those objections are greatly outweighed by the keen disappointment that would be caused by further delay in introducing the constitutional changes which have now been under discussion for more than three years. Moreover, the danger of improper omission or inclusion is comparatively small. The two principal qua-

ifications are pay of land revenue and income-tax record of which are detailed and complete, and steps were taken beforehand to ensure as far as possible that doubtful cases and claims based on other qualifications should be brought to notice. The Governor-General in Council believes that the great majority of those interested in the decision will prefer the possibility of some small degree of error affecting only a few individuals to the certainty of further prolonged delay in the assembling of the new Councils.

MAHOMEDANS AND LANDHOLDERS.

(15) The qualifications prescribed for electors in the cases of the landholders and the Mahomedans vary greatly from Province to Province. They are in accordance, for the most part with specific recommendations of the Local Governments, and these recommendations again were based upon inquiries made by a Special Officer appointed in each Province to ascertain by personal consultation the wishes of the members of the two communities. The Governor-General in Council would have preferred some nearer approach to uniformity; but the principle he has borne in mind is that election by the wishes of the people is the ultimate object to be secured, and he has felt that he must be guided by the advice of the local authorities as to what those wishes are. The states and circumstances both of the landholders and of the Mahomedan community differ widely from Province to Province, and qualifications which would produce a satisfactory constitution in one case would in another give an electorate insignificant in numbers and deficient in representative character.

(16) The qualifications for candidates are as a rule the same as those prescribed for voters, but in some cases, such as that of candidates for election to the Governor-General's Council by the non official members of a Provincial Council, any such restriction would be inappropriate. In other instances there has been some difference of treatment in different Provinces, but the object in all cases has been to secure that the member shall really represent the electorate.

ELECTORAL MACHINERY.

(17) The different kinds of electoral machinery may be broadly classified under two main heads, one under which the electors vote direct for the members, and the other under which they select delegates by whom the members are elected. A subsidiary distinction in each case is that the

electors or delegates either vote at a single centre before a returning officer or vote at different places before an attesting officer, who despatches the voting papers to the returning officer. A further distinction in the case of delegates is that in Bengal each delegate has a varying number of votes, the number depending in the case of District Boards and Municipalities upon the income of those bodies and in the case of the Mahomedan community upon the strength and importance of the Mahomedan population of a District or group of Districts. Elsewhere, the same object has been attained by varying the number of delegates on like grounds, each delegate then having only one vote. In the Central Provinces, however, the number of delegates to be elected by each District Council and Municipal Committee has been fixed not with sole reference to income or population, but with regard to a number of factors of which those two are perhaps the most important.

(18) A special case of voting by delegates is that of the election of a member of the Governor-General's Council to represent the Mahomedan community of Bombay. The delegates in this case are not appointed *ad hoc*, but consist of the Mahomedan Members of the Provincial Council. This exceptional method has been admitted on the assurance of the Governor-General in Council that the Mahomedan community of the Presidency as a whole would be better represented by the Mahomedan Members of the Provincial Council than by any form of direct electorate that could be devised.

(19) The procedure for voting is generally similar to that prescribed by the English Ballot Act. In some cases, however, such as the elections by the Corporation of the Presidency towns, the Chambers of Commerce and the Trades Associations, the voting will, as at present be regulated by the procedure usually adopted by those bodies for the transaction of their ordinary business.

RULES OF BUSINESS.

(20) The Rules authorising the moving and discussion of Resolutions, the Budget, and the asking of questions have been framed in accordance with the decisions on these matters which have been already been announced. In the Rules relating to the discussion in the Governor-General's Council of matters of general public interest it is provided that no discussion shall be allowed in regard to subjects removed from the

cognisance of the Council by the Indian Councils Act of 1861, or matters affecting the foreign relations of His Majesty's Government, or the Government of India, or matters which are *sub-judice*. The President may also disallow any Resolution on the ground that its introduction is opposed to the public interest, or that it should be moved in the Legislative Council of a Local Government. Subject to those necessary restrictions, a Resolution may be moved regarding any matter of general public interest, and all such Resolutions may be fully discussed and put to the vote. The President may assign such time as he may consider reasonable for the discussion of Resolutions of any particular Resolution. The examination of the annual financial proposals in the Governor-General's Council will be divided into parts. There will, first, be an opportunity for discussing any alteration in taxation, any new loan, or any grant to Local Governments proposed or mentioned in the Financial Statement or the explanatory Memorandum accompanying it. In the second stage each head or group of heads of revenue or expenditure not excluded from discussion will be explained by the member in charge of the Administrative Department concerned, and any member may then move a Resolution relating to these subjects. The final stage consists of the presentation of the Budget by the Finance Member, who will explain why any Resolutions passed by the Council have not been accepted. A general discussion of the Budget will follow, but at this stage no Resolution may be moved. The rules for the asking of questions are substantially the same as those hitherto in force, with the important exception that they permit a Member who has asked a question to put a supplementary question.

In respect of these matters each Provincial Council is governed by Rules of its own, which in essentials differ but little from those of the Governor-General's Council. One distinguishing feature, however, is that the local financial statement is first examined by a Committee of the Council, consisting of twelve members, of whom six will be nominated by the head of the Government and six elected by the non-official members of the Council.

CURING DEFECTS.

(21) The Governor-General in Council is conscious that many of the details of the scheme which is being introduced may be found on trial to be unsatisfactory or capable of improvement.

Experience alone can show how far methods which are new to India give to the different classes and interests a measure of representation proportionate to their importance and influence, and to what extent an untried electoral machinery is suitable to the varying circumstances of the different Provinces and the numerous electorates. Defect will, no doubt, be discovered when the rules are put into operation, but if this proves to be the case, the Law admits of the Regulations being amended without difficulty.

THE RESULTS OF THE SCHEME.

(22) Under the arrangements that have been made, the new Provincial Councils will assemble at the beginning of January, 1910, and the Council of the Governor-General in the course of that month.

It is a source of great satisfaction both to the Viceroy personally and to the Members of his Council that the deliberations, which have extended over the greater part of Lord Minto's Viceroyalty, should have achieved their purpose before he lays down the office of Governor-General. The constitutional changes that have been effected are of no small magnitude. The Councils have been greatly enlarged; the maximum strength was 126; it is now 370. All classes and interests of major importance will in future have their own representatives. In the place of 39 elected members there will now be 135, and while the electorate of the old Councils had only the right to recommend the candidate of their choice for appointments by the head of the Government an elected member of the new Councils will sit as of right and will need no official confirmation. Under the Regulations of 1892 officials were everywhere in a majority. The Regulations just issued establish a non-official majority in every Provincial Council. Nor has reform been confined to the constitution of the Councils. Their functions also have been greatly enlarged. A member can now demand that the formal answer to a question shall be supplemented by further information. Discussion will no longer be confined to legislative business, and a discursive and an effectual debate on the Budget will be allowed in respect of all matters of general public interest. Members will in future take a real and active part in shaping the financial proposals for the year and not only as regards financial matters but all questions of administration. They will

have liberal opportunities of criticism and discussion, of initiating advice and suggestions in the form of definite Resolutions. The Governor-General in Council feels that these momentous changes constitute a generous fulfilment of the gracious intention foreshadowed in the King-Emperor's message to entrust to the leaders of the Indian peoples a greater share in Legislation and Government, and he looks forward with confidence to these extensive powers being loyally and wisely used by them in association with the holders of executive authority to promote the prosperity and contentment of all classes of the inhabitants of this great country.

THE FOLLOWING IS.

THE CONSTITUTION OF THE COUNCILS.

As approved by the Secretary of State in Council :—

THE IMPERIAL LEGISLATIVE COUNCIL.

(a) <i>ex officio</i> members,	7	
(b) Officials representing Provinces,	8	
(c) Nominated members not more than 20 to be official while must be represent respectively the landholders of the Punjab, the Mahomedans of the Punjab and Indian Commerce	3	27
(d) Elected members.		
(1) By the Provincial Legislative Councils and the Central Provinces	12	} 25
(2) By the landholders of Madras, Bombay, Bengal, Eastern Bengal and Assam, the United Provinces and the Central Provinces,	6	
(3) By the Mahomedans of Madras, Bombay, Bengal, Eastern Bengal and Assam and the United Provinces,	5	
(4) By the Chambers of Commerce of Calcutta and Bombay,	20	
	67	

Including His Excellency the Viceroy... 1

Total 68

THE PROVINCIAL LEGISLATIVE COUNCILS, MADRAS.

Members of the Executive Council	2
The Advocate-General,	1
Additional—	
(a) Nominated Members not more than 16 to be officials and one to be representative of Indian Commerce.	23
(b) Nominated experts who may be either officials or non-officials,	2

(c) Elected Members,	
(1) By the Corporation of Madras,	1
(2) By Municipalities and District and Taluq Boards,	8
(3) By the University,	1
(4) By the Landholders,	4
(5) By the planting Community,	1
(6) By Mahomedans,	2
(7) By the Chamber of Commerce,	1
(8) By the Trades Association,	1
	19

47

1

Including His Excellency the Governor.

Total 48

ELECTIONS TO IMPERIAL COUNCIL.

The Rules and Regulations for the nomination and election of members on the Imperial Council cover over 120 pages of print.

It is laid down that no person shall be eligible for election as a member of the Council if such person (a) is not a British subject, or (b) is a female, or (c) has been adjudged by a competent Civil Court to be of unsound mind, or (d) is under twenty-five years of age, or (e) is an uncertificated bankrupt or an undischarged insolvent, or (f) has been dismissed from the Government service, or (g) has been sentenced by a Criminal Court to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation or has been ordered to find security for good behaviour under the Code of Criminal Procedure, such sentence or order not having subsequently been reversed or remitted or the offender pardoned, or (h) has been debarred from practising as a legal practitioner by order of any competent authority or (i) has been declared by the Governor-General in Council of such reputation and antecedents that his election would, in the opinion of the Governor-General in Council, be contrary to the public interest, provided that in cases (f), (g), (h), and (i), the disqualification may be removed by an order of the Governor-General in Council in this behalf.

It is also laid down that the term of office of an additional member shall be two years, experts holding office for such shorter periods as the Governor-General may determine. At the time of nomination any member filling a vacancy holds office only so long as the original member would have done.

The Regulations conclude:—(1) As soon as conveniently may be after these Regulations

come into force a Council shall be constituted in accordance with their provisions; (2) for this purpose the Governor-General shall by notification as aforesaid call upon the electorates to proceed to elect members in accordance with these Regulations within such time as may be prescribed by such notification; (3) if within the time so prescribed any such class fails to elect, the Governor-General may nominate at his discretion for a period not exceeding six months any person who is eligible for election by such class. The general qualification for an elector is that he must be qualified to vote in the electorate for which he stands.

ELECTION OF PROVINCIAL MEMBERS.

(1) In Bengal, Bombay, Madras and the United Provinces the Non-official Members of Provincial Councils elect two members for the Viceroy's Council and have accumulative vote. This gives the opportunity to a strong minority to secure one of the seats.

(4) The landholders who elect an additional member in Madras must (a) possess an annual income calculated according to certain rules of not less than Rs. 15,000 from land situated within the Presidency, or (b) receive from Government a Malikhana allowance the annual amount of which is not less than Rs. 15,000.

(10) The Mahomedan community in Madras, who vote for an additional member, shall be electors who (a) are landholders possessing an annual income from land situated within the Presidency of Fort St. George of not less than Rs. 3,000; or (b) pay on their own account income tax on an income of not less than Rs. 6,000; or (c) are members of the Legislative Council of the Governor of Fort St. George; (d) are Ordinary or Honorary Fellows of the University of Madras; or (e) are holders of any title conferred or recognised by the Government, or are Members of the Order of the Star of India of the Indian Empire, or holders of the Kaiser-i-Hind Medal; or (f) are in receipt of pensions for service as gazetted officers of Government.

The constitution of the Legislative Council of Fort St. George.

THE IMPERIAL COUNCIL.

Whereas the Governor-General in Council has, in exercise of the power conferred by Section 8 of the Indian Councils Act, 1909 (9 Edw. 7 Ch.

4), appointed the 15th day of November, 1909 for the coming into operation of the said Act for all purposes and in respect of all Councils, and

Whereas, in exercise of the powers conferred by Section 6 of the said Act, the Governor-General in Council has made Regulations for the nomination and election of Additional Members of the Legislative Council of the Governor-General, and

Whereas, in pursuance of the provisions of Regulation XVIII of the said Regulations, the Governor-General has been pleased to call upon the Non-official Members of the Legislative Council of the Governor of Fort St. George the landholders in the Presidency of Fort St. George and the Mahomedan community in the Presidency of Fort St. George, respectively, to elect in accordance with the said Regulations the Members or Member of the Legislative Council of the Governor-General assigned to them, respectively, in Regulation II of the said Regulations, namely—

- (1) Non-official Members of the Legislative Council of the Governor of Fort St. George 2 Members.
- (2) Landholders in the Presidency of Fort St. George 1
- (3) Mahomedan community in the Presidency of Fort St. George... 1 Member.

THE MADRAS LEGISLATIVE COUNCIL.

Whereas the Governor-General in Council has in exercise of the power conferred by Sections 8 of the Indian Councils Act, 1909 (9 Edw. 7. Ch. 4) appointed the 15th day of November, 1909, for the coming into operation of the said Act for all purposes and in respect of all Councils, and

Whereas in exercise of the powers conferred by Section 6 of the said Act, the Governor-General in Council has made Regulations for the nomination and election of Additional Members of the Legislative Council of the Governor of Fort St. George.

THE ELECTORATES.

In exercise of the powers conferred upon him by Regulation XVIII of the said Regulations, the Governor hereby calls upon the electorates mentioned below, being the electorates referred to in Regulation II of the said Regulations, to elect in accordance with the provisions of the said Regulations the Member or Members assigned

to them, respectively, before the 25th day of December, 1909:—

(1) The Corporation of Madras... 1 Member.

(2) The University of Madras ... 1 "

(3) Municipal Councils and District and Taluk Boards in each of the following groups of Districts:—

Group (i)—Ganjam and Vizagapatam ... 1 Member.

" (ii)—Godavery, Kistna and Guntur ... 1 "

" (iii)—Nellore Chingleput and North Arcot ... 1 "

" (iv)—Cuddapah, Kurnool, Bellary & Anantapur 1 "

" (v)—Salem, Coimbatore and the Nilgiris ... 1 "

" (vi)—South Canara and Malabar (including Anjengo and Tangasseri ... 1 "

" (vii)—Tanjore, South Arcot and Trichinopoly... 1 "

" (viii)—Madura and Tinnevely. 1 "

(4) The Zamindars in each of the following groups of Districts:—

Group (i)—Ganjam, Vizagapatam, Godavery, Kistna, Guntur, Nellore, North Arcot, Cuddapah, Kurnool, Bellary and Anantapur. 1 Member.

Group (ii)—Madras, Chingleput, Salem, Coimbatore, South Canara, Malabar (including Anjengo and Tangasseri), the Nilgiris, South Arcot, Tanjore, Trichinopoly, Madura and Tinnevely ... 1 Member

(5) Landholders other than Zemindars in each of the following groups of Districts:—

Group (i)—Ganjam, Vizagapatam, Godavery, Kistna, Guntur, Nellore, North Arcot, Cuddapah, Kurnool, Bellary and Anantapur. 1 Member.

Group (ii)—Madras, Chingleput, Salem, Coimbatore, South Canara, Malabar (including Anjengo and Tangasseri), the Nilgiris, South Arcot, Tanjore, Trichinopoly, Madura and Tinnevely ... 1 Member

(6) The Mahomedan community in the Presidency of Fort St. George in each of the following groups of Districts,—

Group (i)—Ganjam, Vizagapatam, Godavery, Kistna, Guntur, Nellore, Madras, Chingleput, North Arcot, Cuddapah, Kurnool, Bellary and Anantapur ... 1 Member.

Group (ii)—Salem, Coimbatore, South Canara, Malabar (including Anjengo and Tangasseri), the Nilgiris, South Arcot, Tanjore, Trichinopoly, Madura and Tinnevely... 1 "

(7) The Madras Chamber of Commerce ... 1 "

(8) The Madras Trades Association. 1 "

(9) The planting community ... 1 "

TOTAL... 19

RULES AND REGULATIONS.

In exercise of the power conferred by Section 6 of the Indian Councils Act, 1909 (9 Edw. 7, Ch. 4), the Governor-General in Council has, with the approval of the Secretary of State for India in Council, made the following Regulations for the nomination and election of Additional Members of the Legislative Council of the Governor of Fort St George.—

Regulations for the Nomination and Election of Additional Members of the Legislative Council of the Governor of Fort St. George.

1. (1) The Additional Members of the Legislative Council of the Governor of Fort St. George, other than the Advocate-General or other officer acting in that capacity, shall ordinarily consist of—

A.—Members elected by the classes specified in Regulations II, who shall be nineteen in number;

B.—Members nominated by the Governor, who shall not exceed twenty-three in number, and of whom—

(a) not more than sixteen may be officials, and
(b) one shall be a non-official person to be selected from the Indian commercial community.

(2) In addition to the forty-two Additional Members above specified, the Governor may nominate two more persons, whether officials or

non-officials, having expert knowledge of subjects connected with proposed or pending legislation, to be Additional Members of the Council :

Provided that it shall not be lawful for the Governor to nominate so many official persons under these Regulations that the majority of all the Members of the Council shall be officials.

II. The nineteen elected Members specified in Regulation I shall be elected as follows, namely :—

- (i) By the Corporation of Madras ... 1 Member.
- (ii) By the University of Madras ... 1 Member.
- (iii) By the Municipal Councils and District and Taluq Boards ... 8 Members.
- (iv) By the Zemindars ... 2 Members.
- (v) By the landholders other than Zemindars ... 2 Members.
- (vi) By the Mahomedan community 2 Members.
- (vii) By the Madras Chamber of Commerce ... 1 Member.
- (viii) By the Madras Trades Association ... 1 Member.
- (ix) By the Planting community ... 1 Member.

III. The election of the Members specified in Regulation II shall be effected by the electorates and in accordance with the procedures respectively prescribed in the Schedules annexed to these Regulations.

IV.—No person shall be eligible for election as a Member of the Council, if such person—

- (a) is not a British subject, or
- (b) is a female, or
- (c) has been adjudged by a competent Civil Court to be of unsound mind, or
- (d) is under twenty-five years of age, or
- (e) is an uncertificated bankrupt or an undischarged insolvent, or
- (f) has been dismissed from the Government service, or
- (g) has been sentenced by a Criminal Court to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, or has been ordered to find security for good behaviour under the Code of Criminal Procedure, such sentence or order not having subsequently been reversed or remitted, or the offender pardoned, or
- (h) has been debarred from practising as a legal practitioner by order of any competent authority, or
- (i) has been declared by the Governor in Council to be of such reputation and antecedents

that his election would, in the opinion of the Governor in Council, be contrary to the public interest:

Provided that in cases (f), (g), (h) and (i) the disqualification may be removed by an order of the Governor in Council in this behalf.

V. No person shall be eligible for election under any sub-head of Regulation II unless he possesses the qualifications prescribed for candidates in the Schedule regulating elections under that sub-head.

VI. No person shall be qualified to vote at any election held under these Regulations if such person—

- (a) is a female, or
- (b) is a minor, or
- (c) has been adjudged by a competent Civil Court to be of unsound mind.

VII. Every person who is elected or nominated under these Regulations to be a Member of Council, shall before taking his seat make, at a meeting of the Council, an oath or affirmation of his allegiance to the Crown in the following form, namely :—

I, A. B., having been dated a Member of nominated

the Legislative Council of the Governor of Fort St. George, do solemnly (or swear) affirm that I will bear true allegiance to His Majesty the King-Emperor of India, his heirs and successors, and that I will faithfully discharge the duty of the office upon which I am about to enter.

VIII. (1) If any person—

- (a) not being eligible for election is elected under these regulations, or
- (b) having been elected or nominated, subsequently becomes subject to any of the disabilities stated in clause (c), (e), (f), (g) or (h) of Regulation IV, or fails to make the oath or affirmation prescribed by Regulation VII within such time as the Governor in Council may consider reasonable, the Governor shall by notification in the local official Gazette, declare his election or nomination to be void or his seat to be vacant.

(2) When any such declaration is made, the Governor shall, by notification as aforesaid, call upon the electorate concerned to elect another person, within such time as may be prescribed by such notification, or shall nominate another person, as the case may be.

(3) If any person elected at such fresh election is not eligible for election, the Governor may nominate any person who is eligible for election by the electorate concerned.

IX. (1) If any person is elected by more than one electorate, he shall, by notice in writing signed by him and delivered to the Secretary to the Government of Madras in the Legislative Department, within seven days from the date of the publication of the result of such elections in the local official *Gazette*, choose, or in his default the Governor shall declare, for which of these electorates he shall serve, and the choice or declaration shall be conclusive.

(2) When any such choice or declaration has been made, the votes recorded for such person in any electorate for which he is not to serve shall be deemed not to have been given, and the candidate, if any, who except for the said votes would have been declared elected for such electorate, shall be deemed to have been duly elected for the same.

X. (1) Save as provided in Clause (2) and subject to the provisions of Regulation XVIII, the term of office of an additional member shall be three years from the date of his election or nomination, as the case may be. Provided that official members and members nominated as being persons who have expert knowledge of subjects connected with proposed or pending legislation shall hold office for three years or such shorter period as the Governor may, at the time of nomination, determine.

(2) A member elected or nominated to fill a casual vacancy occurring by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, or otherwise, or a member nominated on failure of an electorate to elect an eligible person, shall hold office so long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

XI. (1) When a vacancy occurs in the case of a Member who represents any interest specified in Regulation II or at any time within three months of the date when such a vacancy will occur in the ordinary course of events, the Governor shall, by notification as aforesaid, call upon the electorate concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification.

(2) When a vacancy occurs in the case of a nominated member, the Governor may nominate any person to the vacancy.

XII. If within the time prescribed by a notification issued under Regulation VIII, Clause (2) or Regulation XI, Clause (1) the electorate concerned fails to elect, the Governor may nominate at his discretion any person who is eligible for election by such electorate.

XIII. The power of making laws and regulations or of transacting other business vested in the Legislative Council of the Governor of Fort St. George shall be exercised only at meetings at which—

(a) the Governor, or

(b) the Vice-President appointed by the Governor under Section 4 of the Indian Councils Act, 1909, or

(c) in the case of the discussions referred to in Section 5 of the said Act, a member appointed to preside in pursuance of a rule made under that Section, and ten or more members of the Council are present.

XIV. (1) No election shall be valid if any corrupt practice is committed in connection therewith by the candidate elected.

(2) A person shall be deemed to commit a corrupt practice within the meaning of these regulations—

(i) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person or,

(ii) who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote.

And a corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation—A "promise of individual profit," includes a promise for the benefit for the person himself, or of any one in whom he is interested.

XVI. No election shall be invalid by reason of a non-compliance with the rules contained in the Schedules to these Regulations, or any mistake in the use of forms annexed thereto, if it appears that the election was conducted in accordance with the principles laid down in such rules, and that such non-compliance or mistake did not affect the result of the election.

XVI. (1) If the validity of any election is brought in question by any person qualified either to be elected or to vote at such election on the ground of the improper rejection or reception of a nomination, or of a vote, or of any corrupt practice in connection with such election, or for any other cause, such person may, at any time within fifteen days from the date of the publication of the result of such election in the local official Gazette, apply to the Local Government to set aside such election.

(2) The Governor in Council shall, after such enquiry (if any) as he may consider necessary, declare, by notification as aforesaid, whether the candidate whose election is questioned or any or what other person was duly elected, or whether the election was void.

(3) If the election is declared void the Governor shall, by notification as aforesaid, call upon the electorate concerned to elect another person within such time as may be prescribed by such notification.

(4) If within the time so prescribed the electorate fails to elect, the Governor may nominate any person who is eligible for election by such electorate.

XVII. The decision by the Governor in Council on any question that may arise as to the intention, construction or application of these Regulations shall be final.

XVIII. (1) As soon as conveniently may be after these Regulations come into force, a Council shall be constituted in accordance with their provisions.

(2) For this purpose the Governor shall, by notification as aforesaid, call upon the electorates referred to in Regulation III to elect members in accordance with these Regulations within such time as may be prescribed by such notification.

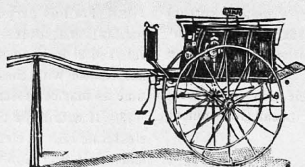
(3) If within the time so prescribed any such electorate fails to elect, the Governor may nominate at his discretion for a period not exceeding six months any person who is eligible for election by such electorate.

H. E. THE VICEROY.

We regret to learn that the Viceroy is suffering from a mild attack of fever. His indisposition has necessitated a change in his programme. We sincerely hope that the rest, that has been decided upon, would restore him to complete health before his arrival at Madras. We sympathize heartily with less fortunate Madras, Trichinopoly and Tanjore in their disappointment which the circumstance has rendered inevitable.

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