

# **FIRST REPORT**

**FROM THE**

**JOINT SELECT COMMITTEE**

**ON THE**

**GOVERNMENT OF INDIA ACT,  
1919 (DRAFT RULES).**

---

**Ordered to be printed, 6th July 1920.**

---

**SIMLA ;  
PRINTED AT THE GOVERNMENT MONOTYPE PRESS,  
1920.**

# FIRST REPORT.

FROM THE SELECT COMMITTEE APPOINTED TO JOIN WITH A COMMITTEE OF THE HOUSE OF COMMONS TO REVISE THE DRAFT RULES MADE UNDER THE GOVERNMENT OF INDIA ACT.

---

## ORDERED TO REPORT—

That the Committee have met and concluded their consideration of those of the draft rules framed by the Government of India to give effect to the provisions of the Government of India Act, 1919, which relate to the composition of, and elections to, the new Legislative Councils and to the regulation of their procedure. The enactment of these rules is a matter of urgency, and the Committee have reserved for a separate report their observations on the remaining rules under the Act.

---

### PART I.—*General.*

1. The Committee desire in the forefront of their Report to express their appreciation of the great care and ability which are displayed in the drafts, and of the remarkable expedition with which this heavy task has been achieved by the Government of India and the local Governments. As will be seen from the Report, the Committee have made but few alterations in the rules as drafted by the authorities in India, and they desire to record their considered opinion that the rules, with these few alterations, are an accurate, but at the same time liberal, interpretation both of the general recommendations contained in their Report on the Bill and of the intentions of Parliament in framing the Act.

2. The Committee have taken no further oral evidence in connection with these rules, but they have had before them many communications forwarded by various individuals and associations interested in the subject, and have taken them into their consideration. They were placed so fully in possession of all classes of opinion on the general principle at issue in their consideration of the Bill, that the hearing of further evidence on the matters arising out of the rules would have served no useful purpose more especially as the rules so largely represent the conclusions on the main points of principle which the Committee themselves put forward in their Report on the Bill, and on which their views remain unchanged; for the drafting of these rules, though it raises broad issues of great importance, is, in the main, a matter of detail, and the Committee are satisfied that in the working out of these details the local Governments and the Government of India have omitted consideration of no claim, interest or argument which was relevant to a decision.

3. The Committee consider it unnecessary to explain at length or in detail the scope or substance of the rules generally, which to a large extent are based, as they have already observed, upon recommendations made in their Report on the Bill. Their remarks will be confined to an explanation of the changes which they have made in the rules as drafted by the Government of India, and to a brief statement of the reasons for them. The Committee understand that the draft rules as provisionally presented to Parliament have been reprinted as amended by themselves, with the addition of a number of amendments (chiefly of a technical nature) recommended by the Government of India since the drafts were framed, and they recommend that the drafts in this revised form should receive the assent of Parliament at the earliest possible date, in order that arrangements for holding elections to the new Council may be set in train in due time.

### PART II.—*Electoral rules for Provincial Councils.*

4. *Reservation of Seats for non-Brahmans in Madras and Mahra'tas in Bombay.*—The communities concerned having failed to arrive at agreement by mutual consent, this question was remitted in accordance with the Committee's recommendation to arbitration by independent persons appointed by the Government of India. The awards of the arbitrators have been embodied in the rules. The Committee recognise (as was inevitable from the nature of the conflicting claims made) that

these awards have not satisfied all parties, but they consider that the awards are in substance eminently reasonable, and they attach importance to recognition of the principle that the award of an arbitrator must be treated as final. They would have greatly preferred for this reason to leave the awards unchanged, but they have felt it impossible to disregard the considered opinion of the Bombay Government that in one respect the Mahratta award should be amended, namely, the proposed reservation for Mahrattas of one of the two seats assigned to a non-Muhammadan constituency described as Bombay City South. The Bombay Government do not regard the Mahrattas in this constituency as sufficiently numerous to justify the allocation to that community of one of these two seats, and fear that the effect of reservation in this constituency will inevitably be to prejudice the chances of the important and influential Parsi community in Bombay City. The Committee have decided therefore to omit this one seat from the list of eight seats proposed for reservation in the Bombay Presidency, thereby reducing the number of reserved seats to seven. In other respects they uphold the awards in both cases.

5. The Committee have further considered the method proposed by the Government of India for working the reservation of seats, and the objections advanced—particularly by Madras non-Brahmans—against this proposal. They endorse the proposals of the Government of India. The Committee's intention in recommending the reservation of seats for the non-Brahman and Mahratta communities was to ensure that (granted sufficient candidates were forthcoming) there should be at least as many non-Brahman (or Mahratta) representatives returned by a constituency as there were seats reserved. The claim advanced by non-Brahmans that, should a non-Brahman head the poll in a two-member constituency in which one seat is reserved, the "reserved" seat should remain reserved for a second non-Brahman, and that the latter should be elected to it in preference to a Brahman candidate who was second in the poll, is entirely inconsistent with the Committee's intentions.

6. *Representation of Wage-Earners.*—In response to the Committee's recommendation that an effort should be made to secure the better representation of the wage-earning classes, the Government of India in drafting the rules included provision for the creation of a special constituency in Calcutta consisting of workers in factories in receipt of wages between Rs. 25 and Rs. 35 a month, and in Bombay City, for the enfranchisement in the ordinary City Constituencies of workers in textile factories in receipt of a monthly wage of not less than Rs. 40 a month. It was estimated that these measures would have enfranchised some 40,000 workers in all. The Committee have given their best consideration to the observations of the Government of India and of the Bombay and Bengal Governments on these proposals. They agree with these authorities that in the present state of labour organisation in India no other scheme than that presented for their consideration would in practice be workable, but that an extension of this scheme to other localities would be impracticable. They further agree that the proposals as they stand represent a very incomplete and, in theory, wholly indefensible solution of the problem, and they cannot disguise from themselves the danger that even this limited experiment would result in an administrative breakdown. They feel, moreover no assurance that it would result in securing for labour the best and most useful representatives available. They have decided therefore without hesitation, though with some regret, that it would be impolitic to persist in an experiment which those best qualified to judge regard with considerable misgivings, and they have therefore added to the list of seats to be filled by nomination on the Bengal Legislative Council the two seats which it was proposed to assign to a labour constituency and have provided that the persons to be nominated to fill these seats shall be chosen as representing labour interests. The scheme for the Bombay Council already provided a nominated seat to be allotted to a labour representative. The abandonment of the proposal, therefore, to enfranchise wage-earners in the Bombay City constituencies necessitates no change in the distribution of seats, since there is no certainty that a labour vote in Bombay City would have secured the return of a candidate specially qualified to represent that interest.

In arriving at this decision the Committee share the belief of the Government of India that the steady rise in prosperity of manual workers in India, and the rapid improvement of their housing conditions, will automatically and without unduly

delay result in qualifying the great majority of their numbers for an ordinary vote in the ordinary constituencies. No other solution than this could be regarded as satisfactory.

7. *Restrictions on Candidature.*—The rules as drafted by the Government of India require that candidates for “general” constituencies shall be registered as electors in a general constituency. In some provinces the candidate must be registered as an elector in the constituency for which he proposes to stand. In others he must, if not registered as an elector in that constituency, be registered in another of the same communal description as that for which he proposes to stand.

• The Committee recognise the force of the arguments in favour of securing some real connection with, and knowledge of, his constituency on the part of a candidate, and also that it is a logical corollary on the system of communal representation that the candidate should be of the same community as those whose interests he seeks to voice. But so long as these two conditions are fulfilled in those provinces to which importance is attached to them, the Committee see no reason to exclude from candidature for general constituencies those who are registered as electors in special constituencies. They recommend therefore that any person who is registered as an elector in any constituency in his province should, subject in certain cases to fulfilment of residential and communal tests, be eligible to be elected by any general constituency. They have redrafted the rule (6) for each council accordingly, and in doing so have given effect to the desire expressed by the Government of Bihar and Orissa, since the draft rules were originally framed, that the communal test should apply in that province also, as in all others with the exceptions of the United Provinces and Assam.

8. *Rules Relating to Corrupt Practices.*—The Committee endorse these rules as in the main a satisfactory fulfilment of the policy they recommend in their Report on the Bill, and they note that the Government of India intend to introduce in the next session of their Legislature the Bill which is required to supplement their provisions. In four respects they have made changes in these rules.

- (a) While agreeing with the Government of India that it is impracticable at the outset in the absence of any data to lay down a limit to election expenditure by candidates which would work fairly and adequately in every constituency with their very varied conditions, they think that the absence of such limits cannot remain a permanent feature of the rules, and that limits can and should be laid down as the result of experience gained at the first elections. They have accordingly added a rule giving power to the Governor General in Council to prescribe limits after the first election, and have made, by a consequential addition to the list in Schedule IV, the non-observance of limits so laid down a “corrupt practice,” commission of which will render an election void.
- (b) The Committee have supplied an omission which in their view rendered the Government of India’s draft defective, by including as a “corrupt practice” the employment of paid canvassers in excess of a maximum which they trust will be rigidly limited.
- (c) The Committee have redrafted Rule 2 of Schedule IV, Part I of the rules in a manner which accords more closely than the original draft with the terms of the English law.
- (d) A slight change has been made in Rule 32, rendering ex-Judges of High Courts eligible to be appointed Commissioners to inquire into disputed elections, and thereby extending the field of choice.

9. The second proviso to Rule 7 for all Councils carries out the recommendation of the Committee in connexion with the Bill relating to Women’s Franchise. Without in any way modifying their views on this subject the Committee think it essential that a constitutional change of this importance should be effected only as the result of a genuine and considered opinion of the majority of the Council, and they have therefore provided that before a resolution on the subject can be moved, the mover must give not less than one month’s notice of his intention to move.

10. The Committee are glad to observe that the rules in a few selected constituencies contain provision for election by the system of proportional representation. They do not question the decision of the Government of India that a wider extension of the system is at the outset impracticable, but they think it possible that experience may show that an extension is both feasible and desirable before the next revision of these rules as the result of the Parliamentary Commission contemplated by the Act. They have therefore added a provision to Rule 13 for all Councils enabling (but not requiring) a local Government to extend the system, if a resolution (safeguarded in the same manner as in the case of Women's Franchise) is carried in the Council recommending an extension.

11. A change has been made in the definition of "European" throughout the rules, which gives the word a somewhat less restricted meaning.

12. This concludes the list of changes in rules affecting all councils. The following changes relate only to the provinces mentioned:—

(a) *Madras and Assam.*—*Rule 3, (3) (b).*—The Committee have added words at the end of this rule, enabling (but not requiring) the Governor to make rules in accordance with which the communities specified in the rule as to be represented by nomination may select persons from whom the Governor may make his choice. A similar provision was made in the Indian Councils Act of 1892, which may be said to have initiated the process of election to legislatures in India, and the Committee think that such a provision, if the Governor finds it possible to act upon it, may pave the way for election proper by educating backward communities in the advantages and responsibilities it involves.

(b) *Rule 4 (Madras).*—A formal change has been made in this rule.

(c) *Bengal.*—The Bengal Government have agreed to the splitting up of many of the plural member constituencies proposed for that province into single member constituencies, with a view to securing smaller areas and closer contact between voters and candidates, and to the renaming of certain constituencies so as to avoid the use of letters of the alphabet. Schedule I for this province has been amended accordingly.

(d) *European and Anglo-Indian representation on the Bengal Council.*—While fully conscious of the importance of the interests of the non-official European Community in Bengal generally and particularly in Calcutta and of the necessity for allowing adequate representation to the Community on the new Legislature, the Committee are inclined to think the proposal to allot so many as 21 elected seats to Europeans and Anglo-Indians out of a total of 115 elected seats is excessive. The Franchise Committee proposed 15 seats for Europeans and Anglo-Indians out of a total of 100 elected seats. It appears to the Committee that this is a reasonable proportion and that an allotment of 18 seats to these communities on the larger Council now contemplated should amply satisfy all requirements. They have accordingly reduced the 3 seats proposed for Anglo-Indians to 2, the 4 seats proposed for the European Constituency consisting of the Presidency and Burdwan Divisions to 3, and the 2 seats proposed for the Calcutta Trades Association to 1. In allocating the 3 seats thus obtained they have adopted the suggestion of the Government of India, namely, that one seat should be added to each of the three following constituencies: the Bengal National Chamber of Commerce, the Hoogly-Howrah non-Muhammadan Constituency, and the Rangpur non-Muhammadan Constituency.

(e) *Rule III for all provinces other than Madras, Bombay and Bengal.*—A formal change has been made in this rule for all provinces other than the three Presidencies which leaves the number of members of the Executive Council unspecified.

(f) *Punjab*.—The Committee have thought it desirable to increase slightly the number of seats proposed to be allotted to the Punjab Legislative Council with two objects, firstly, to increase the representation of the Sikh community, and, secondly, to provide separate representation for the cities of Lahore and Amritsar. For these purposes the Committee, after consulting the Government of India and the Punjab Government, have provided six additional seats, two of which will be allotted to Sikhs, one to Hindus, and three to Muhammadans, this latter number being required in order to preserve the proportions laid down by the Lucknow Compact. There will now be two separate constituencies for each of the cities of Lahore and Amritsar, each returning two members, and the Sikhs inhabiting urban areas will return a member separate from those inhabiting rural areas.

The reasons which have led the Committee to make these changes are their desire to accord as favourable treatment as is possible to the claims which have been advanced on behalf of the Sikhs, to correct the position, which they feel to be anomalous, that the capital city of the province, and a city of such importance as Amritsar, should lack separate representation, and also because they consider that the strength of the Punjab Council can with advantage be approximated more nearly to that of the councils of the other major provinces.

### PART III.—*Electoral Rules for the Indian Legislature.*

13. *Restrictions on Candidature*.—In the case of the Legislative Assembly, the Committee have made the same alteration in Rule 6, which regulates the conditions of candidature, as they have made for the provincial legislature, so as to render eligible for election by a general constituency in any province any person who is registered as an elector in any constituency in that province (whether “general” or “special”) prescribed for the provincial legislature. But they think it unnecessary to maintain for either chamber of the Central Legislature any residential restriction other than residence within the Province. The arguments in favour of residential restrictions for the provincial Legislature do not, it appears to them, apply to the central body. In the latter, what is required primarily is representation of provincial interests as a whole, and not, as in the provincial councils, representation of the interests of particular areas of a province.

The Committee’s re-draft of Rule 6 for the Council of State differs in form from that for the Legislative Assembly but the effect will be the same in both cases—namely, to require only that a candidate shall be a resident of his province.

14. *Corrupt Practices.—Women’s Franchise and Proportional Representation*.—Changes have been made in the rules for the Indian Legislature similar to those described in paragraphs 8, 9 and 10. But with regard to women’s franchise the Committee have thought it desirable to safeguard their original intention that the decision of this question for each province should rest with the provincial legislature, and they have accordingly provided that a resolution by either Chamber of the Indian Legislature in favour of enfranchising women as voters for that Chamber shall have effect in a province only if the province has itself already taken this step for its own Council.

15. *Representation of Delhi*.—The Committee felt great difficulty in agreeing to the proposal of the Government of India that the Province of Delhi should be represented on the Legislative Assembly by means of occasional nomination. They realise that it is impossible to allot seats on the Assembly to all the minor provinces, but they think that there are two circumstances which give Delhi peculiar claims. In the first place, Delhi is now the capital of India, and apart from that, holds a very important position amongst the cities of Upper India by reason of its commercial interests. In the second place, the constitution of the area contained in the city and neighbourhood of Delhi as a separate province has necessarily involved the loss by its inhabitants of representation on any provincial council. It is impossible to provide such representation now on the Punjab Provincial Council, and the Committee recommend, in view of all circumstances, that the proposal of the Franchise Committee should be adopted, and that an elective seat should be added to the Legislative Assembly, to be filled by a constituency consisting of the inhabitants of the Delhi Province with the requisite qualifications. They have, therefore,

embodied in the rules detailed amendments with which they have been furnished by the Government of India in order to give effect to these recommendations.

16. A formal change has been made in Rule 3 for the Legislative Assembly in order to bring its provisions into conformity with Section 19 (2) of the Act of 1919.

*PART IV.—Rules for the conduct of Legislative Business in Provincial Councils and the Indian Legislature.*

17. These rules will be supplemented in matters of details by Standing Orders which the legislatures themselves will have power to alter. The Committee have concerned themselves only with the rules under Section 11 (5) of the Act which require the approval of Parliament and once framed will not be alterable without such approval.

The Committee think it desirable that a Governor's intervention in the proceedings of his Legislative Council should be confined to cases in which control by the executive (which for these purposes the Governor must represent) is essential, having regard to the fact that the Government will not command a majority in any Council, or to cases in which the President will not be in a position to give the requisite ruling. In all other cases they think that the last word should lie with the President of the Council. Following this principle they have substituted the word "President" for "Governor" in Rules 3, 7 and 11. But with regard to the last mentioned rule, they think it necessary to retain for the Governor the power proposed by the Government of India to disallow a motion for adjournment even though it may have received the consent of the President and of the Council, if time permits of reference to the Governor before the adjournment takes place and if the Governor is of opinion that the proposed discussion cannot take place without detriment to the public interest. They have accordingly added a second paragraph to Rule 22 to secure this power. The power to curtail public discussion in these newly constituted legislative bodies will obviously call for great discrimination in its use if it is not to prejudice their success, and to result, not in closing discussion, but in transferring it to less appropriate channels. But the Committee agree with the Government of India that the power is one which the Government must have at its command, and they feel no doubt that the Governor General and the provincial Governors will use their discretion in this matter wisely.

18. A verbal change has also been made in sub-rule (2) of Rule 8.

The changes indicated above have been made in the rules both for the Provincial Councils and the Indian Legislature.

*6th July 1920.*