

*Friday,*  
*17th March, 1911*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

**LAWS AND REGULATIONS**

**Vol. XLIX**

**April 1910 - March 1911**

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OF  
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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**VOLUME XLIX**



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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO 1909 (24 & 25 VICT., c. 67, 55 & 56 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Friday, the 17th March 1911.

PRESENT :

The Hon'ble MR. J. L. JENKINS, C.S.I., Vice-president, *presiding*,

and 58 Members, of whom 53 were Additional Members.

MUSSALMAN WAKF VALIDATING BILL.

The Hon'ble MR. JINNAH : " Sir, I beg to move for leave to introduce a Bill to define the rights of the Mussalman subjects of His Majesty to make settlements of property by way of *wakf* in favour of their families and descendants. Before I proceed with the merits of this Bill, I have to express my grateful thanks, not only on my own behalf, but on behalf of the Mussalman community, to His Excellency the Viceroy for having accorded the sanction which was thought by the advisors of Government necessary under section 19 of the Councils Act of 1861. Before I deal with the merits of this Bill, I want one point to be made clear, and that is this. Ever since the well-known decision of the Privy Council in 1894 which is known as the case of *Abdul Fata Mahomed Ishak v. Russomory*, (reported in L. R. 22 Indian Appeals, page 76), there has been a very strong feeling and agitation amongst the Mussulmans against the decision. That feeling has been expressed in various ways, by sending memorials to Government, by passing resolutions in different associations and conferences and gatherings, and it has been going on for more than 15 years now all over the country. That being the state of the feeling of the Mussalman community on the subject, last year I put certain questions to Government and replies were given to me by the Government of India. These questions I shall trouble the Council with because they show that the Government at that time recognised that very strong objections were entertained against the decision of the Privy Council. The questions that I put and the answers are as follows :

' Are the Government aware that there is a strong feeling prevailing amongst the Muhammadans against the present state of *wakf* law as expounded by the recent decision in Privy Council ?

' Does the Government propose to take steps to bring the law on the subject into conformity with the text and the wishes of the Mussalmans ? If so, how soon ?'

" The answer was :

' The Government are aware that objections are entertained to the exposition of the law on the subject of *wakf* contained in various decisions of the Judicial Committee of the Privy Council. As at present advised the Government are not prepared to undertake legislation with the express object of upsetting judicial decisions to which exception is taken. They are, however, ready at any time to accord their fullest consideration to any specific proposals for legislation directed with the object of securing family settlements of a limited nature, provided that such proposals are generally approved by the Muhammadan community.'

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"After this answer was given by Government I had the opportunity of consulting leading Mussalmans in this country, and it was after a great deal of consideration I decided that the only way in which this question, which is of paramount importance to the Mussalman community, can be solved was to bring a Bill in this Council. I mentioned that there has been agitation going on for many years. Recently the Moslem League, which represents a great volume of Mussalman opinion in this country, at its last session passed a resolution to the effect that Government should undertake this legislation. A society known as Nadba-ul-Ulma, which is composed of learned Maulvis and men learned in the law, I believe has sent in a memorial to Government. I do not know whether it has actually been received by Government, but I know this, that the memorial was sent round for signature, and thousands of signatures have been obtained all over the country from the Mussalmans, and I believe it has been sent to Government. If it has not, it is on its way to Government. A copy of that memorial was sent to me by that great and learned Maulvi, who is known as Maulvi Shibli, and who exercises a great influence over the Mussalman community, and whose opinion is of the greatest value to the country, so far as the Mussalman community is concerned. In that memorial he quotes authorities on the subject and points out what the feeling of the community is, and I will just read a passage from it :

"During the last few years the feeling amongst Muhammadans upon the subject has been growing strong, and it has found expression in various ways. At the meeting of the Moslem League and other Muhammadan Conferences, Sunni and Shia, associations of a social and religious character, resolutions have been passed inviting the Government of India to undertake legislation upon the subject. Khan Bahadur Maulvi Muhammad Yusuf, a leading Vakil of the Calcutta High Court, a great Muhammadan lawyer, submitted an elaborate pamphlet to the Government of India sometime ago. The Right Hon'ble Mr. Syed Amir Ali has written strongly and clearly upon the subject, and Syed Hussain Bilgrami, who was recently a member of the India Council of the Secretary of State, also approached Lord Morley on the subject."

"Therefore, you will see that the feeling in the country on this point is very very strong. The question now before the Council is, what is this question that has been agitating the Mussalman community? As I said, it is the decision of the Privy Council in 1894 that has, to our mind, paralysed the Mussalman law, so far as the power of a Mussalman is concerned, to make trusts for his family, his children and his descendants. The legal history of this question goes as far back as half a century and more. The first decision that I am aware of was pronounced in 1838, and several other decisions followed that decision, but not directly touching this question until 1873, when the decision of the Bombay High Court was given on this point, which ruling definitely marked the era of adverse current of decisions. Since then several pronouncements have been made all over the country by different High Courts more or less conflicting until 1894, when the decision of the Privy Council, the highest tribunal in the empire, gave the severest blow to the Law of *Wakf-al-aulad*. The subject I may tell you is this, There are two things known to Mussalman law—one is *hibba* and the other is *wakf*—two institutions, *Hibba* in other words means out-and-out gift. The Muhammadan law permits a Mussalman to make a gift of his property out-and-out. That is to say, he gives delivery of possession and is done with it—what an English lawyer would call conveyance out-and-out. He cannot under the law of gift create different estates, such as life estates, remainder, vested remainder, and continued remainder. He cannot therefore make any provision of any future character for his family or his children; he has got to give away the property straight off. Then comes the other branch of the Mussalman law which is known as *wakf*. *Wakf*, as I understand, is analogous—somewhat analogous—to the law of trusts in the English law, and that again is divided into two parts: it may be private trusts with ultimate reversion to charity, or it may be charitable trusts pure and simple, or, in other words, private trusts with ultimate reversion to charity or pure and simple charitable or religious trusts. Now, the question that we are concerned with in this Bill is the question of private trusts with ultimate reversion to charity, because even to-day, according to the Mussalman law as well as the laws of all other countries, well-known to all the jurisprudence of different countries, you may dedicate property to charity in perpetuity and the rules that offend against the law of

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perpetuity do not apply. However, we are only concerned with the trust which I would call private trust with ultimate reversion to charity. Here I may remind the Council that the testamentary power of a Mussalman is limited. He can only dispose of one-third of his property by will. That again is subject to the same rules as *hibba* or gift, that is to say, he cannot create life estates or various others estates known to the English or any other law of trust, and what is more, the testamentary disposition cannot be made in favour of heirs, or any particular heir unless all the heirs consent to it after the death of the testator. Now, as I said, in the Bombay High Court the decision was laid down against the Mussalman law in 1873. After that, in 1882 and in 1884, other decisions came and in a way overruled the previous decision, and this sort of conflicting decisions were given and various pronouncements were made in different High Courts in India until in 1894 we came to meet the decision of the Privy Council which lays down in substance as follows:

"It says that *wakf* of this kind, namely, the *wakf-ul-aulad*, is governed by Muhammadan law. No doubt therefore we cannot go beyond the pale of that law, but they say that there must be a substantial dedication to charity. What is substantial dedication to charity? This is not defined in any way at all. They further go on and say that that substantial dedication to charity must be at some period of time or other presumably not too remote. They do not fix any limit upon the time or period. Therefore it has introduced the greatest uncertainty in our law. A Mussalman who wants to make a *wakf* of this character—*wakf-ul-aulad*—does not know at what period of time the charity should come in under the deed. He does not know what would be considered substantial dedication to charity by any Court of Law. One Court may hold that the charity should come in after the first life because the words are 'some period of time or other;' another Court may hold that the charity should come in after two lives; and so on and so forth.

"Again, what is substantial dedication to charity? One Court may hold that one-sixth is enough; another Court may hold that there should be at least half; and so on. Therefore, these two propositions laid down by the Privy Council have introduced the greatest uncertainty in our law. But the main point, the principal point, we are concerned with, is the proposition of the Privy Council that, unless there is substantial dedication to charity, the *wakf* is illusory and therefore bad. We say, with the greatest deference and utmost respect for the Lords of the Privy Council, that that decision is not in accordance with the true principles of Mussalman law, and their exposition of our law is opposed to the fundamental principles of Islamic jurisprudence. If a man cannot make a *wakf-ul-aulad* as it is laid down in our law, then it comes to this, that he cannot make any provision for his family and children at all, and the consequences are that it has been breaking up Mussalman families. Of course, the result of this decision has been, first of all, that *wakfs* have been hunted down. Ancient *wakfs* that have been in existence and operation for years have been hunted down in all parts of India and have been declared invalid. That is one effect of the decision. The other effect of the decision is that it prevents you from making any settlement in favour of your family and children. Therefore, Sir, that being the state of our law at the present moment, the Mussalman community feels that the only way in which it can possibly put this state of things right is by an appeal to legislation. I do not wish to cite the authorities here or the law here. I do not wish to take up the time of the Council unnecessarily, but I hope that I have made my points quite clear.

"The opinions of the greatest lawyers, such as the Right Hon'ble Mr. Amir Ali who is well known, are fully set out in his book, which is the text-book on Muhammadan law; the opinion of Sir Rowland Wilson, who is another eminent Muhammadan lawyer and an author of a very well-known book on Mussalman law, is also to the same effect. I only propose to quote a passage from his book which collects all the translations of all the text-books on this subject, and, after giving all those translations, the conclusion that he comes to is this:—

(See Wilson's *Muhammadan Law*, 3rd Edition, page 478.)

'Mr. Justice Amir Ali, both in his book and in two memorable judgments, has accumulated a mass of testimony to the same effect from other untranslated Arabic works. But

the above extracts from a standard work accessible to all students in its English dress are surely as conclusive (in the absence of contrary evidence) as any affirmative testimony can be as to the practice of Indian Muhammadans of the Hanafi persuasion at the date of that compilation (17th century) and also of the practice in Central Asia at the date of the principal text-books relied on by the compilers (12th and 13th centuries). It may be added that the Turkish practice as described by D'Osson a century ago was substantially the same and that the Shia and Shafite authorities are quite at one with the Hanifites as to the validity of settlements on descendants as has been shown under sections 400 and 484.

"Therefore, he comes to the conclusion that the decision of the Privy Council is not in accordance with Mussalman law.

"Then there is one more passage I will trouble the Council with which comes also from a very great authority, Sir W. C. Petheram, once the Chief Justice of Bengal. After the decision of the Privy Council he happened to take an opportunity of writing an article in the *Law Quarterly Review* of 1897 in which he devotes a great deal of his attention to the original authorities and comes to a conclusion to which I will draw the attention of the Council. It is an article headed 'The Muhammadan Law of Wakf'. He goes into the history of the various judicial pronouncements, and he sums up thus:—

'The judgment of the Judicial Committee as delivered by Lord Hobhouse contains a passage for which I am sure the inhabitants of India as well Hindus as Mussalmans will be grateful. It is as follows: "Amongst the very elaborate arguments and judgments reported in *Bikani Meah's* case some doubts are expressed whether cases of this kind are governed by the Muhammadan law, and it is suggested that the decision in *Ashanulla Chowdhari's* case displaces Muhammadan law in favour of English law. Clearly the Muhammadan law ought to govern a purely Muhammadan disposition of property." After the judgment of the Full Bench had appeared, the subject was a good deal discussed by Muhammadans in India, and I was struck by the fact that every Muhammadan who spoke to me on the subject agreed with Mr. Justice Amir Ali; and they all, both lawyers and laymen, asserted that there was no doubt that a *wakf* as understood by Muhammadans was such as he had described it in his judgment. At about the same time I had a conversation on the subject with a gentleman who then occupied a very important position in the Government of India but who had spent many years in official positions in Muhammadan countries. He assured me that the law as laid down in the majority of the Full Bench was not in accordance with Muhammadan law and that it was within his own knowledge that a very large portion of land both in Turkey and Egypt was held under family settlements created by way of *wakf* constituted and conditioned in the way which Mr. Amir Ali asserts is lawful according to Muhammadan law. As the matter appeared to be of considerable importance I have thought it worth while to endeavour to ascertain how the law on the subject is understood and administered at the present time by Muhammadan Judges in Muhammadan countries and have quite easily obtained two French translations of books which appear to deal with the whole subject and to indicate how the institution is regarded in Turkey, Arabia and Egypt.'

"Here I may pause for a moment and point out that at one time it was thought that the Mussalman law did not apply to *wakf-ul-aulad* and that the English rule of law offending against perpetuity should be made applicable to it. That view hinted at by the previous decisions was absolutely displaced by Lord Hobhouse in that well known case 22 Indian Appeals, page 76, in the clearest terms:

'Clearly the Muhammadan law ought to govern purely Muhammadan dispositions of property.'

"Then he gives those translations. Therefore, you will see, Sir, that at the present moment, while the position of the Mussalmans under the Privy Council decision is, so to say, an *impasse*, in other countries such as Turkey, Arabia, Egypt, and I believe, although I am not quite sure, but I believe that even in Native States in India, such as the Nizam's dominions and others, the true Mussalman law is administered in matters of this kind. Then, if that is so, and so far if we are right that the exposition of the Privy Council of our law is not correct, the question which then arises, Sir, is this: are we to be left in this position which I have described? Is the Muhammadan to be deprived of his power, of his right which is given to every one under any system of jurisprudence, to make an adequate provision for his family and children? You have, on the one hand, by this decision, taken away that power. On the other hand, there is no corresponding power under the Mussalman law which enables him to get over it. Therefore, if I may put it in this way, you have cut off an important limb of the body jurisprudence of Islamic law and it has not been replaced by

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anything at all. Therefore, Sir, as I said, the question is, are the Mussalmans to be left in this position? If yes; we all know that the institution of *wakf* is entirely interwoven with the religious life, the social life and the basic principles of economy of the community, and the result would be—and is—disruption of Muhammadan families; the result is a revolution in the law of property under Muhammadan law. Here again I will quote from the memorial referred to above. In that memorial it is said:—

‘It has long been felt by the Muhammadan community that the result of certain decisions of the Judicial Committee of the Privy Council in cases of Muhammadan family settlements which have gone up before them on appeal from Indian Courts has been the breaking up of an institution which rests upon the highest religious and social sanctions and which in the past has saved a large number of Muhammadan families from destitution while it has at the same time enabled pious Muhammadans to practise what they look upon as an act of great religious merit.’

“On this point, I may here draw the attention of the Council to the words of a great Russian professor who approves of this system, which may appear to an English lawyer trained up in principles of English law as bad for various reasons looked at from the point of view of English jurisprudence. But we have to take each system of jurisprudence by itself. The Russian professor, who has studied this question it seems with very great care, is of this opinion:—

‘It is a most rational and happy solution of economic problems which must have often troubled parents solicitous about the future of their descendants.’

“Therefore, on economic principles he seems to think that it is the best solution that you can possibly have. Well, Sir, that being the position, we feel that the only way open to us is to appeal to our Government; and here to-day I appeal to our Government, and I ask you, Sir, that the Government of India should give every support to this Bill. This Bill is not intended in any way to lay down any new law or new principle. This Bill is only intended to reproduce the Mussalman law which has been disturbed by the decisions of the Privy Council. It is not intended to define the general law of *wakf* which must be governed by the Muhammadan law.

“Now, coming to the provisions of the Bill, you will see that the first portion of the Bill, clauses 1 and 2, are nothing but preamble and definitions, etc. Section 3, which is the most important part of the Bill, says this:—

‘3. Subject to the provisions of this Act, it shall be lawful for any person professing the Mussalman faith, not being a minor or of unsound mind, to create a *wakf* for among others the following purposes:—

- Power to create *wakfs*.
- (a) for the maintenance and support, wholly or partially, of his family, his children and descendants; and
  - (b) where the *wakif* is a Hanafi Mussalman, for his own support and maintenance during his lifetime or for the payment of his debts out of the rents and profits of the property dedicated:

Provided always that the ultimate reversion is, in such cases, expressly or impliedly reserved for the poor, or for some other religious, pious or charitable purpose of a permanent character.’

“Now, that we submit is nothing but a reproduction of Mussalman law.

“Then section 4 is a section by which is intended that there should be a writing, and that writing should be signed and attested by two or more witnesses and registered. That section, which is only a matter of detail and not a matter of principle, is simply to secure the authenticity of a document, and the following sections along with section 4, *viz.*, sections 5 and 6,—all these provisions of registration are intended to prevent fraud upon creditors, because that was one of the points which was emphasized not only by the decisions in the High Courts in India, but by the Privy Council also, that the present state of things opened up a wide door to and facilitated frauds upon the creditors.

“It would depreciate title of property generally and therefore it is just as much in the interest of the owner as the alienee that all safeguards should

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be provided for to maintain clear, good and marketable title to immoveable property.

"In this complaint there is great force having regard to the altered circumstances due to progress and advance of civilization. For example, a man makes a *wakf* in favour of his children and their children, and so on, and ultimate reversion is given to charity. Well, the *wakf* may not be registered; it may be a will, it may be a testamentary document. The document may remain in the drawers of the descendants and they may think it necessary to alienate this property by way of mortgage. Well, so far as they are concerned, perhaps it is in their own interest to keep the document in one of the secret drawers. The next generation may come up and object to it and say the previous generation only had a life interest, they were only entitled to the income, and the mortgage was bad. The creditor who happened to advance money then would be in a great fix, and it is in order to prevent that sort of fraud upon creditors that I have thought it necessary that the document should be registered. Then the whole world would know, because registration is notice, and if any person takes that title he takes it at his own risk. Clause 10, which only deals with testamentary *wakfs*, does not in any way alter the Mussalman law. It only says that if you choose to make a *wakf* by a testamentary document or will it should be registered, that is again to prevent fraud upon the creditors. Clause 11 is intended to give power to the persons mentioned therein to get the will registered within a certain period.

"Therefore, Sir, the Council will see that this Bill does not in any way intend to codify or define the law of property or *wakf* generally which must be governed by the Muhammadan law. It does not in any way go against the Mussalman law, but on the contrary the main object, the sole purpose, of the Bill is to reproduce the Mussalman law in conformity with the texts in accordance with the wishes and very strong feeling of the Mussalman community, which feeling is well justified, having regard to the enormous consequences that have followed upon the decision of the Privy Council. Therefore, I ask the Council to give me leave to introduce this Bill. This Bill will be before the country and we shall then be in a position to see if any objection is entertained against it, and I daresay there may be several suggestions that may be made with regard to the details of the Bill. All those, no doubt, will be fully considered at other stages when we reach those stages. Therefore, I ask the Council, and I ask the Government, to support this Bill, and to allow me to introduce this Bill."

The Hon'ble MAHARAJADHIRAJA BAHADUR OF BURDWAN: "Sir, as one who has always taken an impartial view regarding the relations of Hindus and Muhammadans in India, Mr. Jinnah has my fullest sympathy in this *Wakf* Bill, and I have much pleasure in lending my support to its introduction."

The Hon'ble MR. SACHCHIDANANDA SINHA: "Sir, I rise to support the motion of my friend the Hon'ble Mr. Jinnah, and I am glad that I am able to do so. As one belonging to the same profession as the Hon'ble Mover, and also as one who may claim an intimate knowledge of the feelings of the Muhammadan community on the subject-matter of this Bill, I can say that it will be warmly welcomed by Muhammadans all over India, seeking as it does to secure the perpetuation and permanence of an institution for which there is the highest authority in their religion and law, and which, I am firmly persuaded, is a factor of great economic value in the preservation and development of their society. The necessity for the Bill has, as explained by Mr. Jinnah in his lucid and able speech, arisen because of certain decisions of the Privy Council and the Indian High Courts, the practical effect of which is that *wakf-alal-aulad* or family settlement has now become almost impossible. As I have already said, the roots of this institution lie deep in the religion and history of the Muhammadans, and the way in which their law on this subject has been interpreted by British Judges in India and England is (I mean no disrespect to them) an apt illustration of the dangers which beset the path of all Judges who have to interpret the personal law of communities other than their own—laws which are not unoften totally alien to their social instincts and juristic conceptions, being based on totally dis-similar foundations.



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"Sir, it is known to every lawyer that the word 'charity' has become a word of art in English law; it has a well-defined and technical significance in the well-known English Statute of Elizabeth, and I submit that it is by no means impossible that the view which has been taken by British Judges of the Muhammadan law of *wakf* has been coloured more or less, perhaps unconsciously, by conceptions which are traceable to that Statute. But, as was observed by that eminent Hindu Judge and Jurist, Sir Subramania Iyer (in a case in which he had to deal with the Hindu conception of Dharma, charity, like water, takes its colouring from the soil through which it flows. The Hon'ble Mr. Jinnah's Bill does no more, as I look upon it, than ask the Judges to bear in mind the character of the soil in judging of the colouring of the water. Now, what is the orthodox Muhammadan law on the subject? I shall give it in the words of a distinguished Indian Judge whose eminence as a Muslim Jurist has been recognised by his recent elevation to the Privy Council. 'Every good purpose', says the Right Hon'ble Mr. Syed Amir Ali in his book on Muhammadan law, 'which God approves, or by which approach is attained to the Deity, is a fitting purpose for a valid and lawful *wakf* or dedication. A provision for one's self, for one's children, for one's relations, is as good and pious an act as a dedication for the support of the general body of the poor. The principle is founded on the religion of Islam, and derived from the teachings of the Prophet, and, therefore, any variation of the rule is a direct interference with the Mussalman religion.' These are the words of an eminent Muhammadan Judge. It is true that the exposition of Mr. Amir Ali has not been accepted by British Judges in India or by the Privy Council, and that is just the reason why the Muhammadan community require that the Legislature should come to their rescue and place the law on a more satisfactory footing. In a case reported in I. L. R. 17 Cal. 498 (*Ahsan Ullah Chowdhry's* case) their Lordships say 'they have not been referred to nor can they find any authority showing that, according to Muhammadan law, a gift is good as a *wakf*, unless there is a substantial dedication of the property to charitable uses at some period of time or other.' In a subsequent case (*Abul Fata v. Rasmaya*, 22 Cal. 635) their Lordships say: 'As regards precepts which are held up as the fundamental principles of Muhammadan law, their Lordships are not forgetting how far law and religion are mixed up together in the Muhammadan communities; but they asked during the argument how it comes about that by the general law of Islam, at least as known in India, simple gifts by private persons to remote unborn generations of descendants, successions that is of inalienable life-interest, are forbidden; and whether it is to be taken that the very same dispositions, which are illegal when made by ordinary words of gifts, become legal if only the settlor says that they are made as *wakf*, in the name of God, or for the sake of the poor. To these questions no answer was given or attempted, nor can their Lordships see any.' Sir, I desire to speak with all the respect due to their Lordships, but I feel bound to say that this way of arguing the question is hardly satisfactory. It scarcely takes into account the spirit of the institution, and, even assuming that the Muhammadan law is illogical in this respect, it is after all not a very serious reproach to it, for has not a recent Lord Chancellor, the Earl of Halsbury, reminded us in one of his judgments (*Queen v. Leatham*, 1901, A. C.) that law is not always logical and that, because a proposition is logical, it does not follow that it also is legal. Again, their Lordships say in the same case (in 22 Cal.) that it 'would be doing wrong to the great law-giver to suppose that he was commending gifts for which the donor exercised no self-denial, in which he took back with one hand what he appeared to put away with the other, which was to form the centre of attraction for accumulation of income and for the accession of family property, which carefully protect so-called managers from being called to account; which seek to give donors and their family the enjoyment of the property, free from all liability to creditors; and which do not seek the benefit of others beyond the use of empty words.' I submit the abuse of an institution, intrinsically good, is no argument against its continuance. By all means make it impossible that it should be abused, or that it should be used as a weapon for defrauding honest creditors; but why abolish it when the religion and the

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law of Islam require that it should live? Sir, as with other maxims, so with legal, it is a good rule to remember that they should not be construed too strictly and literally. We all know that perpetuities are odious to law and that alienability is the general rule governing property. But we also know that certain perpetuities are allowed even in the English law itself and that in England and India alike there are certain classes of property which are inalienable. In dealing, therefore, with the question before us, we should not allow ourselves to be too much influenced by general abstract principles of jurisprudence, but rather see whether a restraint such as is imposed upon property by the law of *wakf* is good or bad, in the interest of those whom it concerns. On this point the Hon'ble Mover has already quoted the high authority of the Russian Professor, de Nauphal. I myself believe that having regard to the economic conditions of Muhammadan society in India, the institution of *wakf*, besides being founded on their religion, is a factor of great economic value. The Government themselves have had in some parts of the country to pass laws permitting the entailing and prohibiting the free transfer of property. They are, therefore, invited to take no extraordinary step in the interest of the Muhammadan community. As I have already shown from a quotation from a judgment of the Privy Council, it is required that the dedication to be good must be a substantial dedication for the poor or for charity. Sir, quite a jungle of case-law has grown up on the dictum of their Lordships, and in each case the question as to what is a substantial dedication, and what is not, presents an element of great uncertainty. As regards the poor, they are always with us, and the Muhammadan law itself makes them the ultimate beneficiaries under every charity, when all other objects fail. But it should be remembered that the Muhammadan law looks upon one's own descendants as also fitting objects of charity. After all, we need not feel so much shocked at this provision, when we remember what a world of wisdom is concentrated in that homely adage, alas! but too often misapplied—that charity begins at home.

"Sir, I believe the Hon'ble Mr. Jinnah in this matter has behind him the entire Muhammadan community; he has his own religion and law on his side, and also the good wishes and sympathy of his Hindu fellow-subjects. It appears to me that neither economic considerations nor public policy will at all be strained by accepting his motion, but that, on the contrary, the acceptance by this Council of this Bill to-day and its enactment in due course will bring satisfaction and contentment to the great Mussalman community and remove from their mind a genuine grievance. For this reason I have great pleasure in cordially supporting the motion before the Council."

THE HON'BLE NAWAB ABDUL MAJID: "Sir, I rise to support the motion of the Hon'ble Mr. Jinnah. There is no doubt that the Muhammadan community at the present time feel very much aggrieved on account of the Privy Council ruling that has been pronounced by their Lordships of the Privy Council. The Muhammadan law of *wakf*, be it primarily for a religious or a charitable purpose, or be it primarily for a private purpose, is a law which is considered by the Muhammadan jurists to be a religious law. According to the Muhammadan jurists themselves, even a private trust, though indeed the primary objects may be relations and members of the family, yet the ultimate objects are always considered the poor and other charitable purposes. That being so, the Muhammadan community at the present time feel that, by the pronouncement of the Privy Council, a branch of their religious law has been repealed. Since the establishment of British rule in this country, the observance of the law of endowment has been guaranteed to the Muhammadan community. Now that they find that one of the most important portions of it has thus been repealed, they are alarmed, and they are alarmed, I say, very justly.

"Sir, the only remedy left for the Muhammadans now is that they should come to Government and that they should ask Government to legislate on this question. When a judgment has been pronounced by the highest tribunal, that judgment is sure to be followed by all the subordinate Courts, and legislation is the only remedy which is left to the Muhammadans. Now, my friend the Hon'ble Mr. Jinnah has taken the right action in this matter. As has been said

[17TH MARCH 1911.] [Nawab Abdul Majid; Raja of Dighapatia; Maulvi Shams-ul-Huda.]

by the Mover, several attempts have been made by the Muhammadan community to gain their object; but they have failed up to this time. That great and learned Maulvi of Lucknow, I mean Shamshul-Ulama—Maulvi Shibli—has organised a committee and with a view to move the Government has taken signatures of thousands of Muhammadans. He has sent circulars all round to every district and he has obtained their signatures. I do not know whether his memorial is before the Government or not, but, so far as we know, he has got a memorial ready and he was thinking of sending it to the Government. He has given in that memorial all the reasons for persuading the Government to legislate with a view to remove the effect of the Privy Council ruling. We are all very thankful to Shamshul-Ulama—Maulvi Shibli—for all the troubles that he has taken and the efforts that he has made in this direction.

“Now, as to the result of the Privy Council ruling, Sir, it cannot be gainsaid that many old settlements have been destroyed and there are many more waiting to be destroyed. If some early step is not taken, it is possible that many more Muhammadan families will be ruined.

“Now, Sir, as has been said by my friend, the Hon'ble Mr. Sachchidananda Sinha, the whole difficulty has arisen from a misconception of the meaning of the word 'charity'. Charity, as understood by English jurists, is understood in a different sense, whereas it is understood by the Muhammadan jurists in a different sense. Even in our Holy Koran, wherever it enjoins for charities, the first word used is *qurba*, i.e., one's relations. If you give alms, the first persons you should give alms to are your relations. And here, I may quote a passage from the well-written pamphlet of Shamshul-Ulama—Maulvi Shibli—on *wakf* on relations: it is this:—

‘In the Holy Koran we find the following:—“It is not righteousness that ye turn your faces in prayer towards the east and the west, but righteousness is of him who believeth in God and the Last Day and the Angels and the Scriptures and the Prophets; who giveth money for God's sake unto his kindred and unto orphans and the needy and the stranger and those who ask; and for the redemption of captives.”’

“Again, in the Koran we read:

‘They will ask thee what shall we bestow (in alms). Answer, the goods which ye bestow let it be given to parents, kindred and orphans, and the poor and the strangers.’

“In like manner, in Muhammadan works which are in Arabic and unfortunately they are not translated in English, the law of *wakf* is a law which has been highly developed in the Muhammadan jurisprudence. Chapters after chapters are written on this law, and the settlement on kindred and descendants and members of the family is a very important portion of that law. The law of *wakf* is the same thing as trusts in other systems of the law. If *wakf* on descendants and relations is not going to be recognized in British India, it means that Muhammadans are going to be deprived of the observance of a very important branch of their law and which according to their belief is a very important portion of their religious law.

“With these few remarks, I support the motion of the Hon'ble Mr. Jinnah.”

The Hon'ble RAJA OF DIGHPATIA: “Sir, as the representative of the Hindu and the Muhammadan landlords of Eastern Bengal and Assam, I have much pleasure to support the Bill which has just been introduced by my Hon'ble friend Mr. Jinnah, and I beg to submit that as far as possible the Government ought to do something to save the disintegration of the properties of old Muhammadan families, which, I would say, in that case would be real pillars of the Empire.”

The Hon'ble MAULVI SHAMS-UL-HUDA: “I do not think at this stage it is necessary to enter into a detailed examination of the Hon'ble Mr. Jinnah's Bill. The main provision of the Bill is to be found in clause 3, and as to that I trust there will be no difference of opinion among the Muhammadan Members of this Council. The decision of the Privy Council to which reference has been

[*Maulvi Shams-ul-Huda; Nawab Saiyid Muhammad* [17TH MARCH 1911.]  
*Sahib Bahadur.*]

made by my Hon'ble friend took the Muhammadans of India by surprise, and it is the unanimous opinion of all Muhammadans who are conversant with the laws of Islam that the decision of their Lordships has interpreted the law very differently from the interpretation put by Muhammadan jurists. Those decisions have led to considerable litigation about validity of *wakfs*, and a large number of *wakfs* known as *wakf-atal-aulad* have been declared invalid, although if tested by the rules of Muhammadan law alone they were open to no objection. A *wakf* is a religious institution and the Muhammadans of India consider the present state of the law as highly unsatisfactory and as an interference with their religious laws and usages. The discontent is very widespread and very keen and urgently calls for remedy. The correct view of the Muhammadan law on this subject, if I may say so without impertinence, is to be found in the Right Hon'ble Syed Amir Ali's well-known book on Muhammadan law; and before I sit down I wish to quote a passage from Sir Roland Wilson's *Digest of Anglo-Muhammadan Law*, in which, referring to the opinion expressed by Mr. Amir Ali, the learned author says :

'In the great *wakf* controversy I am even more strongly convinced than before that as against the Privy Council he has proved his case up to the hilt so far as the question of law is concerned. The question of public policy is another matter altogether with which the Legislature will one day have to deal.'

"To this I would only add that public policy as understood by modern lawyers has no place in Muhammadan law."

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR : "It is a matter of regret that a Bill for defining the Muhammadan law of *wakfs* should come up before this Council. The Muhammadan law on the point is very clear and plain, and it was a mistake, if I may say so, on the part of the Privy Council to decide directly against the principle of the Muhammadan law of *wakfs* itself. In the very first place, I should mention that the passing of such a Bill, or the taking up of it by the Imperial Council, for deliberation and discussion ought not to be construed into a *precedent* by future legislators for interfering with any point or principle of the Muhammadan law, unless similar circumstances arise, which I hope would never be. We Muhammadans consider our sacred law to be perfect in all points, and deeply resent any attempt by any person or body to interfere with, change or substitute the Muhammadan law, whether of inheritance, Marriage or Trusts; for we consider our law to be so elastic as to enable us to suitably apply it under any circumstances and for all time to come; and it is therefore with great reluctance that we ask the Legislature to pass a law of this kind simply to protect the rights which we are entitled to enjoy under our own personal law. Apart from all individual opinions or interests on the point, it is noteworthy that the general tenor of the entire Muhammadan population of India, which is indeed no small figure, will be nothing but intensely hostile to any disregard by the Government of its promise of dealing out justice and equity to all classes of people, and allowing absolute religious freedom to them—the Muhammadans to be governed by their own personal law and the Hindus by their own Shastric rules. This important principle, though enunciated long ago, has always been affirmed and reaffirmed by successive British statesmen up to the present day. It is therefore in this our hour of need and alarm, that we appeal to the Government to pass a law to re-establish the Muhammadan law of *wakfs*, especially on those points—and vital points they are—which the Privy Council has questioned, nay, has completely upset it.

"The utterances of the doctors of Muhammadan law on the subject of family endowment or family settlements are very explicit and clear, and leave us in no doubt whatever as to what are the limits within which any settlement can be made, though there are one or two dissentient voices even in the history of Muhammadan law on this subject. For example, the learned jurist Abu Hanifa says that there should be a free circulation of property among the members of the community and that there should not be any property at all tied down for any purpose whether religious or mundane. He thus with one blow strikes at the root of all devolution of property of the nature of trusts

[17TH MARCH 1911.] [*Nawab Saiyid Muhammad Sahib Bahadur; Mr. Subba Rao; Babu Bhupendranath Basu.*]

or endowments. But there is an overwhelming majority of learned Muhammadan lawyers of equal fame in favour of trusts which is in conformity with the teachings of the great prophet of Islam.

"I do not wish to be long on this Bill of Mr. Jinnah's as I have not had the opportunity of studying the Bill yet and giving it such consideration as the importance of the subject demands. I therefore reserve my opinion on the merits of the Bill. I shall consider all its details when it is taken up again. From the point of view mentioned above, *i.e.*, from the point of view that the Privy Council has misconstrued the law by delivering a judgment against the root principle of the Muhammadan law of endowments, and that we now seek to remedy this mistake. I welcome a Bill of this nature with all my heart, and earnestly appeal to the Government to afford facilities for the passage of such a Bill, which would be not only conducive to the interests and welfare of an important section of His Majesty's subjects, but would also render the Muhammadan law immune from interference. The feeling that now pervades all Muhammadans that their right of enjoying perfect religious liberty has been infringed would be removed by the Government accepting a proposal calculated to restore the law on the subject."

The Hon'ble MR. SUBBA RAO: "It is not uncommon to find that the Privy Council has sometimes run counter to the law as understood by particular communities in this country. One such instance recently occurred in the province of Madras with regard to impartible estates in that presidency. The Privy Council laid down in regard to a certain impartible estate that the last holder had full powers to alienate it to anybody as he pleased and upheld that particular alienation. The zamindars of that province were naturally alarmed at this decision and approached the Government to legislate that impartible estates could not be alienated according to the whim and pleasure of the holders. The Madras Legislative Council accordingly passed an Act declaring that such estates as were known to be impartible could not be alienated by the holder except under certain conditions. Similarly, so far as the Muhammadan community is concerned, the Privy Council has laid down a law which in the opinion of that community is not correct. It is, therefore, but right that a Bill should be introduced in this Council to lay down the law correctly as understood by Muhammadans. With these few words, I support the motion."

The Hon'ble BADU BHUPENDRANATH BASU: "Sir, my friend the Hon'ble Mr. Jinnah's Bill deals with two aspects of the question. First of all he proposes that *wakf* created by a *wakif* for his own benefit or for the benefit of his descendants should be recognized as valid, and secondly as to the procedure which should be adopted for giving effect to a valid *wakf* if it is held that the *wakif* or the endower is at liberty to make a *wakf* of this description. My friend is met at the outset by a very strong expression of legal opinion against him. We have on our side in Bengal a Full Bench decision—I believe five Judges sat upon it—which held that an endowment, unless it is made absolutely for the benefit of a charity or the poor, would not be valid. A valid endowment for the aggrandisement of one's own family would not be valid. That judgment of the Full Bench was dissented from by one of the members, Mr. Justice Amir Ali. Then there was the appeal to the Privy Council, and their Lordships of the Privy Council went very fully into the question and upheld the decision of the majority of the High Court. But before this decision became known (I am speaking of Bengal only) there were numerous *wakfs* on the old lines recognized by Muhammadan laymen and jurists for the benefit of a man's family with ultimate reversion in case of failure of the family in favour of the poor. This principle unfortunately is opposed to the ordinary acceptance of English lawyers, and naturally a *wakf* or trust for a man himself and his family extending over many generations for an unknown and indefinite period would appeal to the modern sense as untenable. But we have got to deal with a law which was promulgated nearly 1,200 years ago and to consider it. No doubt there is in India naturally great faith in judgments of the Privy Council; but, as my friend the Hon'ble Mr. Subba Rao has said, the Privy Council sometimes lands us in very strange anomalies. Years ago a question arose in the Calcutta High Court as to whether the widow of a childless Hindu, if she became

[Babu Bhupendranath Basu; Mr. Gokhale.] [17TH MARCH 1911.]

unchaste, was entitled to retain the property which she had inherited. I may tell the Council (I do not think it need be said) that under the Hindu law, if a man dies without leaving male issue, and under the Mitakshara system if he has no coparcener, his widow succeeds, provided the widow is chaste. This question was raised in a suit in the Calcutta High Court, where it was proved that the widow had become unchaste since the death of the husband; and Hindu lawyers gave it as their opinion, basing their opinion upon texts of Hindu law which to them were very clear, that the widow by reason of her subsequent unchastity had forfeited her right to her husband's estate. Well, this question, as I say, came up, and one of the Hindu lawyers, the late Justice Dwarka Nath Mitter, held that the widow had forfeited her right to her husband's estate; but he was overruled by the other members of the Bench and this question ultimately went up to the Privy Council; and the latter held, following the English principle—which but for the fact that it has become a part of Indian law would not be acceptable to the ordinary lay minds—that property once vested could not be divested, the widow having once inherited could not be disinherited, and that the doctrine of Hindu law that the widow must be chaste to inherit her husband's property would apply only to the period when the husband was alive; that is to say, during the husband's lifetime she would not inherit, but if she did inherit and afterwards became unchaste, she would not forfeit the property that she had inherited; and this curious decision of the Privy Council has landed us in a great many difficulties, the most prominent among which is this that a Hindu widow, if she remarries, forfeits her husband's property, but if she becomes unchaste she continues to enjoy her husband's property. Sir, our Muhammadan friends can also say in this matter that the interpretation of Muhammadan law by the Judicial Committee of the Privy Council has landed them in very serious difficulties. One of the great difficulties is the Muhammadan law of *wakf*. We, neither Hindus nor Muhammadans, have a law of entail amongst us. We have no law by which we can tie up our property even for three generations, and the result is that under the decisions of the Privy Council there is a rapid disintegration of both Hindu and Muhammadan families. I am not dealing with the Hindu question of *debuttar* at the present moment; that does not form the subject of the discussion in Council to-day. Therefore, I sympathise very fully with my Muhammadan friends when they seek to bring forward a Bill which would remedy a misconception, if I may venture to say so, of the law as laid down by the Judicial Committee of the Privy Council. But while I give my friends my fullest support on this side, as a practical lawyer I must warn my friend the Hon'ble Mr. Jinnah against the elements of danger that may lurk behind a measure like this—elements which, as Mr. Jinnah has himself pointed out, are fraught with trouble. Very complete and efficient safeguards must be provided under that head, and I am disposed to think that the safeguards which my friend Mr. Jinnah has provided are not sufficient. There is an analogy in the Settled Estates Act of Bengal where the Government has laid down a certain procedure by which creditors are protected in reference to estates which one proposes to settle under that Act; and it will be necessary to consider, when the Bill is fully discussed, as to what should be the safeguards to protect innocent creditors at the time when the *wakf* is made—creditors who may be either secured or unsecured. Subject to such a reservation I support the Bill."

The Hon'ble MR. GOKHALE: "Sir, I am entirely innocent of any knowledge of the Muhammadan law and I am not affected by that law whatever it may be; I do not therefore express any opinion on the merits of the measure before us. But I wish to say a word in support of the motion that my Hon'ble friend Mr. Jinnah should be granted leave to introduce this Bill on the general ground that this matter concerns the Muhammadan community only; that the community should be allowed an opportunity to express its views on the subject; and that the Government should not stand in the way of the community, unless there is anything in the proposal that is repugnant to our notions of right, justice or humanity. As there is no such question, I think the views of the community should be ascertained, and the only way in which that can be done is by giving leave to Mr. Jinnah to introduce his Bill."

[17TH MARCH 1911.] [Mr. Mazharul Haque; Mr. Earle.]

The Hon'ble MR. MAZHARUL HAQUE: "Sir, my Hon'ble Hindu colleagues of this Council have laid the whole Muhammadan community of India under an obligation which we cannot and shall never forget. One after another they got up, expressed their sympathy with the Bill, and supported it. I also consider it my duty to repeat the grateful thanks of my community to His Excellency the Viceroy for permitting us to bring this Bill. Sir, the measure is really a difficult and technical one and has to be dealt with by trained lawyers, and therefore I shall not weary this Council by a repetition of the arguments which have already been advanced by my Hon'ble friend Mr. Jinnah, and so ably advanced. But I may be permitted to say that there are two aspects of this question which ought not to be forgotten. What is there in the way of the Government in accepting this Bill? Sir, if the principle of the Bill is really the principle of the Muhammadan law as has been administered in the country for a very long time, and as my friend the Hon'ble Mr. Jinnah has reminded this Council is still being administered in Egypt, Persia, Turkey and certain districts of India, then I humbly submit that the Government should not throw any obstacle in our way. At the same time I confess that the Government would like us, the Muhammadans, to show that we are really unanimously desirous that such a law should be passed. I may assure Government that before this Bill comes for discussion in this Council we shall certainly take great care that the Government should know the fact that the Muhammadans in India are really unanimous on this point. I need not enter into the details of those decisions which have been passed by the Judicial Committee of the Privy Council and the High Courts of India; but this I am bound to say, that the decisions which have been quoted by my Hon'ble friends here are certainly not in accordance with the principles of Muhammadan law. This has been the grievance of the Muhammadans for the last fifteen or sixteen years. I believe it was in 1894 when that decision of the Privy Council was passed, and since then we have been trying, and trying hard, to have that decision upset; but we find that we have been unable to gain our object. The utility of this reformed Council, for which we are so grateful to Lord Minto and Lord Morley, is apparent from the fact that different communities of India can ventilate their real grievances and have them remedied. We are grateful to Government, Sir, for giving us a sympathetic hearing in this Council to-day on this subject, and we are also grateful, I repeat, to the Hon'ble Hindu Members of this Council for giving us their support.

"With these few remarks I beg to support the Hon'ble Mr. Jinnah's motion."

The Hon'ble MR. EARLE: "The attitude which the Government of India will maintain in regard to the Bill will for the present be one of benevolent neutrality. When last this subject was discussed in 1900 on the representation of the Central Muhammadan Association, Bengal, the feeling of the majority of the Muhammadans was against legislation with the object of amending the Muhammadan law as interpreted by the Privy Council, on two grounds: (1) that further effort should be made to induce the Privy Council to modify their decision, and; (2) that legislation in respect of their religious law was undesirable. Test cases have, I understand, been brought, with no result, and no more need be said on that subject. As regards the second point, it must be admitted that the Muhammadan world has been moving rapidly of late, and it may be that Muhammadan opinion has changed. The Government of India are willing to allow the Bill to go out to Local Governments to be discussed.

"As regards the form and scope of the Bill, the Government of India must keep a completely open mind, and reserve to themselves the right to oppose the Bill, in whole or part, if that appears expedient at a later stage. I gather that my friend the Hon'ble Mr. Shams-ul-Huda has also proposed a Bill of a more restricted scope. Bengal was, however, outdistanced by Bombay [and we have the Hon'ble Mr. Jinnah's Bill before us. It remains to be seen what proposals, if any, will succeed in the end. The Government of India are content to let the Bill go forward on the understanding to which I have referred, and will wait a full expression of Muhammadan opinion on the subject."

[Mr. Jinnah; Mr. Subba Rao.] [17TH MARCH 1911.]

The Hon'ble MR. JINNAH : " Sir, I am extremely grateful to my colleagues in this Council, particularly the Hindu Members of this Council, for having accorded their support to this Bill that I have brought before this Council. There is only one remark of caution and somewhat over-caution which was made by the Hon'ble Mr. Basu. Of course, I shall be very pleased if Mr. Basu will at any time point out to me what further safeguards are necessary to prevent fraud against the creditors. He did not mention any in his speech, but if he does mention any hereafter and we think that it would help us, I should personally be very pleased to accept any suggestion of that kind. I am also thankful to the Hon'ble Member who spoke on behalf of Government. All that we desire at the present moment is that the Bill should be put before the country, and I quite agree that it mainly depends upon the opinion and feeling that the country will express on this Bill. I personally feel certain that the Mussalman community is unanimous on this question, and I hope that the Government will also be satisfied to that effect in course of time."

The motion was put and agreed to.

The Hon'ble MR. JINNAH introduced the Bill and moved that the Bill together with the Statement of Objects and Reasons relating thereto, be published in the *Gazette of India* in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

#### EMPLOYMENT IN PUBLIC SERVICE.

The Hon'ble MR. SUBBA RAO : " Mr. President, I beg to move the following resolution :—

'That this Council recommends that a mixed Commission consisting of officials and non-officials be appointed to consider the claims of Indians to higher and more extensive employment in the Public Service connected with the civil administration of the country.'

" I may be permitted, Sir, at the outset to express my thanks to His Excellency the Viceroy for having permitted this resolution to be brought before the Council as early as possible in His Lordship's tenure of office; and I take it as an earnest of His Excellency's desire to judge for himself whether the administrative machinery of the Government requires any reform, as is asserted in some quarters. I take this opportunity, Sir, to express my thanks to the Secretaries of the several Departments of the Government of India for the readiness with which they have supplied me with information on this subject.

"The resolution before us deals with the question of the higher and more extensive employment of Indians in the public service; that is, the more extensive employment of Indians in the higher grades of the public service. I realise, Sir, fully the responsibility that in speaking on this subject I do so in the presence of distinguished members of the Indian Civil Service—a service whose members have the proud privilege of making modern India by their high-souled patriotism, their stern sense of discipline and deep devotion to duty, and whose members have responded cheerfully to the changing conditions of their Indian environment. If I criticise the service, Sir, it is not the men that adorn the service, but it is the system that is in force, which I urge requires a change.

"The question before us has from time to time engaged the attention of the Government here and in England for the last three-quarters of a century, and a lot of literature has grown around the subject. It is impossible, therefore, to deal with the subject fully within the time at my disposal, and I shall, therefore, try to give a general outline of the history of the subject and explain how the power conferred by the Statute of 1870 to frame rules has been exercised, and with what result. I shall show that the arrangements in force are against the spirit and the intentions of that Statute. I shall then deal with the present situation and place some suggestions before the Council as to the steps that should be taken to improve the present state of things.



[17TH MARCH 1911.]

[Mr. Subba Rao.]

"There are four important landmarks in the history of the Public Service in India. The Statute of 1833, the Queen's Proclamation of 1858, the Statute of 1870, and the appointment of the Public Service Commission, mark the different stages—all directed towards the sole object of associating the people with the real administration of the country. But the steps taken so far have not been successful in securing the end in view and giving satisfaction to the people.

"The year 1833 is memorable in the history of the Government of India. Till then the East India Company was both a commercial and political body. In that year its monopoly in trade was finally abolished and the Company thenceforward exercised only administrative and political powers. In that year was also abolished the monopoly of office by which Indians had been excluded from the principal offices under the Government, and section 17 of the Statute of 1833 was enacted for that purpose. Lord Macaulay described it as 'that wise, that benevolent, that noble clause,' and said, 'I must say that, to the last day of my life, I shall be proud to have been one of those who assisted in the framing of the Bill which contains that clause.' The Marquis of Lansdowne, who introduced it in the House of Lords, said :

'It was a part of the new system which he had to propose to their Lordships that to every office in India every Native of whatsoever caste, sect or religion should by law be equally admissible, and he hoped that Government would seriously endeavour to give the fullest effect to this arrangement, which would be as beneficial to the people themselves as it would be advantageous to the economical reforms which were now in progress in different parts of India.'

"The Court of Directors, in forwarding a copy of the Statute to the Government of India, observed :

'The meaning of the enactment we take to be that there shall be no governing caste in British India; that whatever other tests of qualification may be adopted, distinctions of race or religion shall not be of the number.'

"They emphasized that not race but 'fitness is henceforth to be the criterion of eligibility' for public offices. Notwithstanding these noble declarations, no effect was given to the clause.

"In 1858 the system of nomination and patronage was abolished and the principal civil appointments were thrown open to competition, but the centre of examination for admission to the Civil Service was fixed in England; that system has continued up to date.

"In 1858, the Government of the country was taken over by the Crown, when the noble Proclamation of Her Gracious Majesty Queen Victoria was issued, laying down the true principles by which the government of this country could be carried on with safety—a Proclamation which was described by the late King-Emperor as 'the Great Charter of 1858.'

"Shortly after the Secretary of State appointed a Committee of five members of his Council, all distinguished Anglo-Indians, to consider the subject. They reported on the 14th of January 1860 that to do justice to the claims of Indians, simultaneous examinations should be held in England and India, 'as being the fairest and the most in accordance with the principles of a general competition for a common object.'

"But nothing came out of it, and the question continued to be the subject of consideration on the part of responsible authorities.

"After prolonged correspondence, section 6 of the Statute of 1870 was enacted. In moving the second reading of the Bill on the 11th of March 1869, His Grace the Duke of Argyll said :

'With regard, however, to the employment of Natives in the government of their country in the Covenanted Service, formerly of the Company, and now of the Crown, I must say that we have not fulfilled our duty, or the promises and engagements which we have made.....I have always felt that the regulations laid down for the competitive examinations rendered nugatory the declaration of the Act of 1833; and so strongly has this been felt of late years by the Government of India that various suggestions have been made to remedy the evil.'

"Speaking of the Statute, Lord Kimberley, in his Despatch of the 8th January 1885, said : 'the Act remains a measure of remarkable breadth and

liberality.' It empowers 'the Government of India and the Secretary of State in Council, acting together, to frame rules under which Natives of India may be admitted to any of the offices hitherto restricted to the Covenanted Civil Service.'

"Again, there was a long correspondence on the subject between the Secretary of State and the Government of India as to the best way in which the Statute could be given effect to and the claims of the Indians for honourable employment in the administration of their country could be satisfied. The Government of India took nearly nine years to frame workable rules under the Statute. Lord Lytton summed up the situation up to that time in these words:

'I do not hesitate to say that both the Governments of England and of India appear to me, up to the present moment, unable to answer satisfactorily the charge of having taken every means in their power of breaking to the heart the words of promise they had uttered to the ear.'

"At last the Government of India in 1878 discussed the whole question afresh and recommended to the Secretary of State, among other things, to which I need not refer at present, the establishment of a '*close Native Civil Service*,' to which should be transferred a proportion of the posts reserved for the Covenanted Service with a proportion of those held by the Uncovenanted Service.

"The then Secretary of State vetoed these proposals to constitute a close Native Service, and suggested that the annual recruitment in England to the Covenanted Civil Service might be reduced by a certain proportion and that Indians might be annually appointed to such places. He pointed out that one of the advantages of such a scheme was that it would place the Indians on a footing of social equality with the members of the Covenanted Civil Service. He suggested further that the salary of every office might be determined 'at a fixed amount' to, which might be added in the case of covenanted English Civilians 'the rate sufficient to make up the present salaries under some neutral denomination.' The Government of India, while expressing its regret that the scheme for a new close Native Civil Service could not be accepted, submitted rules by which they provided that a proportion not exceeding one-fifth of the recruits appointed from England in any one year should be Indians selected in India. These rules were published in 1879. But the system of Statutory Civilians failed to give satisfaction, as no steps were taken to secure the best men in the country, and as more importance was attached in the selection of candidates to birth and social position than to intellectual fitness.

"The whole question was once more re-opened, and in 1886 the Public Service Commission was appointed 'to devise a scheme which may reasonably be hoped to possess the necessary elements of finality and to do full justice to the claims of Natives of India to higher and more extensive employment in the Public Service.' The Commission practically adopted the lines suggested by the Government of India in its Despatch of the 2nd May 1878 above referred to, and made recommendations, which I need not detail here.

"After long correspondence the Government of India fixed in April 1892 the places that should be listed as open to the members of the Provincial Service, and in November they published fresh rules under the Statute of 1870. As stated by the Government of India, 'it (the scheme) was meant to be a final settlement of the claims of the Provincial Service and to be gradually worked up to within a generation of official life.'

"The final outcome of the labours of the Public Service Commission is—

(1) We have, first of all, in spite of the Statutes of 1833 and 1870, the reservation of the higher offices of the State to a particular class of persons recruited in England, mainly Europeans, constituting the Indian Civil Service. The principle on which this Service is constituted is in the words of the Government of India:

'That the Covenanted Civil Service should be reduced to a *corps d'élite* and its numbers limited to what is necessary to fill the chief administrative appointments of the Government

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and such a number of smaller appointments as will ensure a complete course of training for junior Civilians.'

(2) We have next the creation of an inferior service known as the Provincial Service, filled mainly by Indians—a service characterized by Mr. Dadabhai Naoroji, who has laboured long and incessantly in this cause, as the *Pariah Service*.

(3) Under the rules of 1879, the Statutory Civilians, though on two-thirds pay, held an equal status with the members of the Covenanted Civil Service and had an opportunity to rise to the highest posts in the State; whereas the members of the Provincial Service were assigned a distinctly lower status in the service of the State, and they could not, under the rules, rise to any post higher than that of a District and Sessions Judge or District Collector, and these places are very few, one-sixth of the former and one-tenth of the latter being listed. The recommendations of the Public Service Commission to exclude the following places from the Schedule were not accepted:—

- (1) One member of the Board of Revenue in Madras, Bengal and the United Provinces and a Financial Commissioner in the Punjab.
- (2) One of the chief Revenue-officers of divisions in all provinces, except Bombay and Assam.
- (3) Under-Secretaries to the several Governments in India. (Only one Under-Secretary allowed.)
- (4) One-third of the District and Sessions Judges in all provinces. (Only one-sixth allowed.)

(4) Further, under the rules of 1879, one-fifth of the annual recruitment in England could be made in India by the appointment of Statutory Civilians; whereas we have now a specific number of appointments listed as open to Indians. The number of appointments recommended by the Commission was about 108. It was reduced finally to 93. The figure now stands at 102, including one for Assam and five for Burma which were subsequently listed, of which 92 were held by members of the Provincial Service or Statutory Civilians. Thus we find that after more than 30 years since the recruitment in England was reduced, about ten places excluded from the Schedule are still held by the Indian Civil Service.

(5) Again, if the rules of 1879 had been in force and the Commission had not been constituted, the number of charges available to Indians would have been nearly 165, one-sixth of 993, instead of 102, as it is at present. The number of charges in 1892 when the Provincial Service was constituted was 840 and it is now 903, and yet there has been no increase of places listed in different provinces worth speaking of.

(6) The differentiation into two distinct services has been carried out on the same principles in almost all the special departments of the Public Service—Education, Public Works, Survey, Forest, Telegraph, etc.—one Imperial, mainly European, and the other Provincial, mainly Indian. In some departments, rules have been so framed as to keep back Indian talent from reaching the highest places therein and seriously injure the rights of Indians.

"I shall now take up some particular departments to illustrate the above remarks. Let us take the Education Department which was organised in 1896. There is no chance under the rules for any Indian, unless he is recruited in England, to become the head of a college, much less a Director of Public Instruction, however eminently fitted he might be. I shall not speak of the effects of this differentiation and I shall allow Mr. Chisol, the author of *Indian Unrest*, to describe them. He wrote:

'Before the Commission sat, Indians and Europeans used to work side by side in the superior graded service of the Department, and until quite recently they had drawn the same pay. The Commission abolished this equality and comradeship and put the Europeans and the Indians into separate pens. The European pen was named the Indian Educational Service, and the Native pen was named the Provincial Educational Service. Into the Provincial Service were put Indians holding lower posts than any held by Europeans and with no prospect of ever rising to the maximum salaries hitherto within their reach. To pretend

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that equality was maintained under the new scheme is idle, and the grievance thus created has caused a bitterness which is not allayed by the fact that the Commission created analogous grievances in other branches of the Public Service.

“ Let us now turn to another department—Public Works.

“ Before the department was organised in 1892, Engineers recruited in this country were treated on terms of perfect equality with those recruited in England. The pay and rank of both were the same. They were placed on the same list and had side by side promotion. In 1892, the service was differentiated into the Imperial and the Provincial, and the pay of Provincial Engineers was reduced and fixed at nearly two-thirds of that of the Imperial Engineers; yet their rank was unaffected and their time scale of promotion was the same as for Imperial Engineers. The department was again reorganised in 1908. According to this scheme, the two services were made distinct and separate. There was no longer one list and side by side promotion. Each had its separate list and separate scale of promotion. According to the Imperial scale, the European Engineer became an Executive Engineer after 8 years, whereas the Provincial Engineer had to wait to rise to that grade for 15 years. In the former case his promotion was practically unconditional, whereas in the case of the latter there must be a vacancy in the divisional charges reserved for Provincial Engineers. Again, out of a total cadre of about 953 including Railways, 280 places are allotted to the Provincial Service. The actual strength of the Provincial Service is 170—146 in Public Works and 24 in Railways, as against 727 of the Imperial Engineers—574 in Public Works and 153 in Railways. It may be seen easily from these facts what chance Provincial Engineers have, handicapped as they are as against the Imperial Engineers, to ever reach the higher grades of the service, that is, to the grades of Superintending and Chief Engineers. The result of the new scheme is that a Provincial Engineer of 14 years' standing would be liable to serve under an Imperial Engineer of 9 years' service. Though there was a distinct assurance given by the Resolutions of 19th July 1892 and 23rd September 1893, that there would be no distinction between them and the Imperial officers as regards pay, promotion, leave and pension, yet under the new scheme of 1908 it has been ordered that their names should be removed from the list of Imperial men, that they cannot receive the promotion given to the Imperial Engineers, and in fact that they cannot be treated on the same footing as Imperial Engineers who were their competitors till 1908.

“ Take again the Survey organised in 1895. Out of a cadre of 48 appointments, nearly one-fifth, *i.e.*, 10 out of 48, is reserved to the Provincial Service, the rest to the Imperial. The nine highest posts of the grade of Superintendents have been excluded from the Provincial Service and the highest post to which the members of that service could aspire is that of Deputy Superintendent.

“ It is the same tale in other departments.

“ The latest department which was organised, and that under Lord Curzon, is the Customs. This is made wholly Imperial, and the Resolution of 1906 lays down that except for the places reserved for the Indian Civil Service, the rest, *i.e.*, the Assistant Collectors, ‘ will ordinarily be recruited in England.’ Since that time, however, two Indians have been appointed in this department.

“ Now, turning to the rules of recruitment in England, we find that for the Public Works Department the regulations lay down ‘ that every candidate must be a British subject of European descent and at the time of birth his father must have been a British subject, either natural-born or naturalized in the United Kingdom,’ and that Natives of India who are British subjects are eligible for appointment and shall be selected to the extent of ten per cent. out of the total number of Assistant Engineers recruited, if duly qualified. That is something, but when we come to the Police, there is not even this *reservation of ten per cent.* for Indians.

“ Now, if we come to the Political Department, the recruitment is practically from officers of the Indian Army and of the Indian Civil Service. Though Indians specially selected are declared to be eligible under the rules of 1875, there is only one Indian holding the post of an Attaché in the Secretariat.

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"Thus we see in how many directions the door is closed against the employment of Indians in the higher offices of the State.

"Side by side with the policy steadily pursued of excluding Indians in different departments, it is refreshing to find that in the Accounts Departments, under the direct control of the Hon'ble Finance Member, Indians and Europeans are treated equally in all respects, in the matter of rank, pay and promotion. They are placed on one list and have side by side promotion. It is with great relief and satisfaction we listened the other day to a statement of the liberal policy enunciated by the Hon'ble Sir Guy Fleetwood Wilson with regard to these departments. This policy of equal treatment accorded to His Majesty's subjects in these departments has produced its natural results among the officers employed therein. There is more comradeship, mutual respect and contentment among them than among any other class of public servants. The fact that the officers have to serve in different parts of India and not in their own province only has given them a freedom and impartiality which has enhanced their prestige and has added efficiency to the work done by them.

"I shall now proceed to consider the question whether the rules framed under the Statute of 1870 and the arrangements now in force are in accord with the spirit and intentions of the Statute.

"It is plain that the effect of the rules and orders on the subject is to reserve a particular class of appointments to the members of the Indian Civil Service, and that those Indians who do not proceed to England and pass the examinations there are debarred from being appointed to the higher offices reserved for the Civil Service, though otherwise qualified therefor. Consequently, the authorities in India are restrained by the rules and orders for the time being from appointing Natives of India to any such offices unless they have been admitted to the Indian Civil Service, a result which was not contemplated by the Statute. I draw the particular attention of the Council to this aspect of the question.

"Now, the first set of rules framed by the Government of India in 1878 were disallowed on the ground that they prescribed that the main qualification requisite for appointments under the Act should be a certain precedent term of service in the higher ranks of the Subordinate Service, or in the legal profession. When the question was referred to the Law Officers of the Crown by the Secretary of State, they pointed out that the section 'was expressly intended to afford increased facilities for the employment of Natives of India of "proved merit and ability" in the Indian Civil Service. The "proved merit and ability" need only be proved or established to the satisfaction of the authorities making the appointments, and no particular method of establishing proof of merit or ability is enjoined,' and they gave it as their opinion that the restriction on the exercise of the discretion of the authorities limiting the appointments to those who had previously served the Government was 'clearly opposed to the spirit and intention of the Act.'

"I submit that, as the limitation of the exercise of discretion by rules to a particular class of persons is against the spirit and intentions of the Act, so the limitation of the exercise of discretion by rules and orders for the time being to a particular class of appointments is equally opposed to the spirit and intentions of the Act.

"Assuming that the rules are technically in legal form, there is no doubt that in effect they defeat the very object for which the Statute was passed, viz., that nothing shall restrain the authorities in India from appointing an Indian of proved merit and ability to any office reserved to the Indian Civil Service under the Statute though he may not have been admitted to the Civil Service by passing the examination in England; in fact, the Government have done indirectly what they have expressly been prohibited from doing by the Statute.

"The result is as might be expected from the constitution of the two services. Only about 7 per cent. of the appointments carrying a salary of one thousand rupees and upwards are in the hands of Indians, and almost all the

high appointments of the State involving direction, initiative and supervision have been jealously kept in the hands of Europeans. The constitution of the official element in the several Legislative Councils in the country is a striking example of the effect of these rules. To take the Imperial Legislative Council, the heads of departments and their Secretaries are all Europeans, and the solitary Indian in the official ranks is the Hon'ble the Law Member, Mr. Ali Imam. Sir Thomas Munro said, 'we have a whole nation from which to make our choice of Natives.' Yet there is apparently in the view of the Government such a dearth of native talent in this country that it could not furnish Indians to represent different departments and interests of Government, though in the Native States responsible offices are filled with conspicuous ability by Indians. This is indeed a sad commentary on the labours of the Public Service Commission, which was constituted 'to do full justice to the claims of Natives of India to higher and more extensive employment in the Public Service.'

"It is hardly necessary to say that the Report of the Public Service Commission and the final orders issued on the subject were received by the intelligent public with deep disappointment, and loud have been the protests in the Press and from representative public bodies against the injustice done to the claims of Indians in answer to their demand for responsible association with the Government in the administration of the country. Even some of the Indian members of the Commission, who gave their assent to the scheme on certain conditions, felt deeply aggrieved at the result of their labours. In this connection I shall quote the words of Mr. Salem Ramaswamy Mudaliar, a Madras member of the Commission. He said, 'the net result of what the Secretary of State has done is to place us in a worse position than we occupied when the Public Service Commission was appointed.'

"In 1893 a discussion was raised in Parliament and a resolution was passed by the House of Commons that all open competitive examinations held in England alone for appointments to the Civil Services of India should henceforth be held simultaneously both in India and England. But nothing came of it.

"Not only were the protests from the public unheeded, but Lord Curzon's Government issued a resolution in 1904, with a number of tabular statements, justifying the exclusion of Indians from the higher offices of the State and trying to prove that the indigenous agency was extensively and liberally employed in the service of the State

"The Hon'ble Mr. Gokhale at the Budget discussion in the Supreme Council in 1905 demonstrated, if any demonstration were necessary, that the position taken up by Lord Curzon was utterly untenable and disastrous to the best interests of England and India. His criticism, I venture to say, remains unanswered up to date.

"The plea that a very large and a gradually increasing number of appointments is held by Indians is an old one put forward under various guises. The real question is, what is the actual share which Indians have in the direction and supervision of the administration of their country? It is no answer to the question that there are thousands of appointments held by them in the lower rungs of the ladder. The large number of tabular statements annexed to the resolution amply disprove the claim advanced by His Lordship that Indians were being treated with 'a liberality unexampled in the history of the world,' and they show that, as we rise higher and higher in the official ladder, the Indian element is practically nowhere. I do not think it is necessary to point out how His Lordship's reading of the pre-British period of Indian history is inaccurate, for never before in the long and chequered history of India was Indian talent so largely divorced from the controlling centres of authority. I shall only draw attention to the letter of His Highness the Nizam of Hyderabad, addressed to Lord Minto last year in connection with the steps to be taken for stamping out sedition. He wrote:

'The experience that I have acquired within the last 25 years in ruling my State encourages me to venture upon a few observations which I trust will be accepted in the spirit in which they are offered. I have already said that my subjects are, as a rule, contented,

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peaceful and law-abiding. For this blessing I have to thank my ancestors. They were singularly free from all religious and racial prejudices. Their wisdom and foresight induced them to employ Hindus and Muhammandans, Europeans and Parsis, alike in carrying on the administration, and they reposed entire confidence in their officers, whatever religion, race, sect or creed they belonged to.'

"After stating that his Dewan is a Hindu and that the revenue administration of half of his State is entrusted to two Parsis, he concludes with these words:—'It is in a great measure to this policy that I attribute the contentment and well-being of my dominions.'

"This question, Sir, affects vitally our self-respect and honour, the growth of national individuality, and our national well-being. It is not merely a question of careers for our young men or of rupees, annas and pies, though economy is no doubt an important consideration in carrying on the administration of a poor country like India. It is because our demands in this respect have been ignored, if not treated with contempt, that the discontent in the country deepened. It was loudly asserted in some quarters that there was no hope of national growth under the British flag. Fortunately we had at the helm of the Government two statesmen who had the insight to read correctly the critical situation with which they were confronted. At the Guildhall banquet on the 23rd February last, when the freedom of the City of London was presented to him, Lord Minto, in reviewing the affairs of this country, said:

'Before I had been in India many months, it became evident to me that we should ere long have to deal with a mass of accumulated popular discontent. . . . As far as we could judge the character of the discontent, much of it was justifiable and was directly due to a dawning belief that further opportunities must be afforded for the official representation of Indian public opinion and a greater share be granted to Indians in the government of the country.'

"I may say that it was due to the courageous steps taken by Lord Minto and Lord Morley in introducing reforms in the Legislative Councils and in appointing Indians to Executive Councils that we have tided over the difficulties, and the faith of the people has been revived in the beneficent intentions of the British Raj. The reform of the Legislative Councils of this country has been welcomed more on the ground that these bodies would afford opportunities to the representatives of the people to point out the defects in the machinery of the Government and make it work more in accord with the needs and aspirations of the people. But it cannot be said to be effective unless it is immediately followed up by a reform in the administrative machinery of the Government, which has been out of repair for a good long time. Mere tinkering with it by giving a few more appointments to Indians will be of no good. The reform of the legislative machinery has but touched the fringe of the real question awaiting solution, which hangs on the reform in the agency for carrying on the administration of the country. This is a grievance sorely felt in the country. In fact, it is the root of the evil of discontent. Nearly a quarter of a century has elapsed since the Public Service Commission sat. India has changed considerably since those days. A new generation has grown up with new ideals and aspirations which are more vividly pulsating in the life of the people. The time is opportune to take up this problem of administrative reform and examine it in all its aspects.

"The questions that arise are:—

- (1) How to get out of this tangle which has been created by the Public Service Commission and all that has followed?
- (2) How to secure real comradeship and mutual respect among the officers of the Public Service?
- (3) How to remove the stigma of inferiority that is attached to the Provincial Service?
- (4) How to give effect to the beneficent intentions of Parliament as embodied in the Statutes of 1833 and 1870 and to the spirit of the Queen's Proclamation?

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(5) How to secure the willing and enthusiastic co-operation of the Indian people in the administration of the country and strengthen the foundations of British Raj in this land?

"I shall now consider the principles and the line of policy that should be adopted in the government of the country that would accomplish these ends. At present I venture to offer some suggestions on the subject.

"(I) The first principle that should be laid down is that no appointments or class of appointments in the Public Service in all its branches, whether general or special, should be made the monopoly of any particular class of His Majesty's subjects in the United Kingdom or India and that all appointments should be open to all classes of people.

"(II) If this is accepted, the rule that the chief administrative appointments of Government should be the monopoly of the Indian Civil Service recruited in England ought to be abolished. At the lowest, such appointments should for the present be shared equally between Europeans and Indians in all departments.

"(III) Competitive examinations now held in England for different branches of the Public Service should be held simultaneously in both countries, and if it is not found possible, examinations of equally high standards should be instituted in this country, so that those who are selected here may command the respect of their competitors selected in England. These examinations should be open to all, and if this is not found possible, limited to nominated candidates.

"(IV) The system of nomination should be abolished, as its effects are demoralising and stunt the growth of national character.

"(V) In the higher grades of the service, the members should not be confined to their own province but should as far as possible serve in other provinces.

"(VI) If the Provincial Service is to be retained in any form, it should be recruited on lines similar to the above service. Where it is considered that a particular class should be represented in the service, if candidates from that class are not available in a particular province, they might be recruited from other provinces.

"(VII) Provision should be made for promotion from one service to the next higher service for officers of tried merit and ability.

"(VIII) Where it is considered that candidates for technical appointments are not available in this country, efforts should be made to send young men to other countries to qualify themselves for such places, and it should be the endeavour of the Government as far as possible to replace foreign agency at an early date.

"(IX) The salary of every office should be 'at a fixed amount' and in the case of a European appointed to it an extra allowance might be given, as suggested by the Secretary of State in his letter of 1878 above referred to.

"The whole question, I need hardly state, hinges on the attitude of England towards India and the relations that should exist between the British and the Indian subjects of His Majesty. This question has been prominently attracting the attention of all those who are interested in the welfare of Great Britain and India—whether the relationship between Europeans and Indians in this country should be one of manly comradeship and co-operation born of equal status and equal privileges, or whether it should be one of timid dependence and sycophancy born of the relationship of superior and inferior. It is a truism that real respect and comradeship can only grow out of 'common service, common emulation, and common rights impartially held.' As we solve this question, the problem before us will be solved. But this depends on the ideal that England sets before herself in the government of this country. The true ideal, however distant and impracticable it might at present appear, should be that India would in the process of time become a self-governing unit of the British Empire, enjoying the same rights and privileges and subject to the same duties and obligations as the other self-governing members of that Empire. If this ideal be steadily kept in view, it would not be difficult to



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formulate a policy that should govern the services to the satisfaction of all parties and secure the hearty co-operation of the people in the government of the country.

"The Government calls upon us to co-operate with them in evolving a high sense of citizenship in the difficult task of carrying on the complex administration of this vast country. Is it too much to ask that to secure our co-operation and develop a common citizenship, we should be placed on a footing of equality and manly comradeship with the British subjects of His Majesty the King-Emperor? You may give us magnificent works of irrigation, you may build up a vast system of railways, you may lighten the burden of taxation, you may drive out famine and bring plenty into this ancient land; but so long as manhood is dwarfed and self-respect is wounded, there can be no real contentment and real co-operation with the Government of the country. Lord Lansdowne, in quoting the words of Sir Thomas Munro in connection with the Statute of 1833, said :

'What is in every age and every country the great stimulus to the pursuit of knowledge but the prospect of fame or wealth or power? Or what is even the use of great attainments, if they are not to be devoted to their noblest purpose, the services of the community, by employing those who possess them according to their respective qualifications in the various duties of the public administration of the country? Our books alone will do little or nothing; dry, simple literature will never improve the character of a nation. To produce this effect, it must open the road to wealth and honour and public employment. Without the prospect of such reward, no attainments in science will ever raise the character of a people.'

"We cannot disguise the patent fact that under the present system expert knowledge and ripe experience gained in the administration of the country are drained away and this drain of the intelligence and talent cannot be compensated by any measures which may be devised except some such as I have indicated above.

"The problem, no doubt, is a complex one, involving many conflicting and powerful interests. It, therefore, calls for the best statesmanship and wisdom which the country can command. How the different services should be regulated and modified and how the grievances felt in each department removed is not an easy question to solve. It is, therefore, necessary that a Commission or Committee, where non-official opinion is represented, should be appointed to evolve a scheme which would do justice to the rights of the people of this country, strengthen the foundation of the British rule and give opportunities to India to become, in course of ages it may be, a self-respecting partner in the British Empire, linked with Great Britain in silken bonds of gratitude and love.

"I beg to move, Sir, the resolution which stands in my name."

The Hon'ble NAWAB SAIYAD MUHAMMAD SAHIB BAHADUR: "Sir, I have much pleasure in supporting the resolution of my Hon'ble friend Mr. Subba Rao, and in doing so I shall make one or two observations, although I am afraid I cannot do that justice to the subject which Mr. Subba Rao has so impartially dealt out.

"The language of the solemn pledges and declarations made by the Parliament and responsible statesmen during the last 75 years and the terms and spirit of the Queen's Proclamation leave no doubt in the mind of the enquirer that the theory on which we are governed is simply excellent and beyond the pale of all dispute. But in so far the theory remains unrealised in practice, does it and has it produced dissatisfaction among the people of India? In theory it is admitted that no post however high should remain closed to a native of India; simply because he is an Indian. No doubt we all gratefully recognize the fact that some of the highest places have recently been thrown open to qualified Indians; but what about the higher grades of the various branches of the Government service? In some departments we find only few and in others none at all. This is undoubtedly a most deplorable state of things, and I therefore accord my full support to my Hon'ble colleague, especially to that part of his speech in which he has pointed out that where it is considered

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that a particular class should be represented in the service, and if candidates from that class are not available in a particular province, they may be recruited from other provinces."

The Hon'ble Mr. MUDHOLKAR: "Sir, the subject with which the resolution deals is one of prime importance. It has to be recognized that attempts have been made to deal with it satisfactorily. Those attempts, however, have not been very successful. At any rate they have not given satisfaction to the people. The Government must be prepared to see the subject brought forward over and over again until there is a solution which appeals to the mind of the people and satisfies their expectations. These demands, Sir, are based on grounds of justice, of sound finance, of the economical well-being of the country, and last but not least of the stability of the empire. They are made in the interests not of any one community but of all the communities residing in this country. Sir, when in speaking on this subject I use the term 'Indians' I include therein not only Indians of pure Asiatic descent but also those who are called Statutory Indians, including therein the domiciled community and the Anglo-Indians. The justice of the claim in the abstract has been admitted by Government, but according to our view effect has not been given to it, and sufficient action has not been taken towards the translation of these abstract principles into realities generally and in some departments in an utterly inadequate manner. Sir, we are often told to clear our minds of cant. We have also been told to realize that the demand for admission to the higher posts and positions could not be granted, and that Indians of pure Asiatic descent ought to be satisfied and to be thankful for what they have got and what has been done by Government. We must stand and admire. This position, this attitude, which casts to the wind the great and vital principle laid down by the Statute of 1833 and by the Proclamation of 1858, deserves to be emphatically and authoritatively repudiated in the same manner as that other remarkable doctrine that the principles laid down by the Royal Proclamation of 1858 and the pledges given therein are to be treated as so many diplomatic statements. I do not wish to go into a statement of the general principles which have been laid down by Government from time to time. What I would ask this Council to consider is that though there may be some justification for asking for the establishment of a *corps d'elite* for the Political Department and to some extent in the Revenue and Administrative Department proper, there is absolutely no justification for any distinction, other than of merit, to be made, no reason why any test except proved ability and trustworthiness should guide the determination of selection in other departments such as the Public Works Department, the Forest Department, the Customs Department, the Education Department and similar other Departments. In these departments the position of Indians is in some respects worse than what it was before the Commission of 1886 was appointed. I would ask the Council to consider what Mr. Subba Rao has pointed out in regard to this matter. On the Public Works Department for instance the position was rendered worse first in 1892 and still worse again in 1908. I shall within the few minutes allowed to me specifically deal with one portion of the Public Works Department, and that is the Railway Branch of what is the Public Works Department in a broad sense of the term. The question of the employment of Indians in the State Railways was incidentally referred to last week when we were told that the number of Indians who were actually employed constituted about 97 per cent. of the men in Government service. I shall place before the Council a few facts which will show what is the position of Indians in this Department. In this connection I am only speaking of Indians of pure descent, because from the information available it is impossible to find out whether those who are shown in the list as having European names are Europeans or Anglo-Indians or persons who are domiciled in the country. Now, Sir, taking the State railways managed by the State, we find that there are in the Engineering Department 80 Chief Engineers and Superintending Engineers on salaries ranging from Rs. 1,500 to Rs. 2,750. There is only one Indian officiating in the third class in this branch. There are 50 Executive Engineers

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on salaries ranging from Rs. 700 to Rs. 1,250; of those 7 are Indians. There are 50 Assistant Engineers on salaries ranging from Rs. 350 to Rs. 650, of whom only 2 are Indians. There are 35 Royal Engineers (Executive Engineers and Assistants) on salaries ranging from Rs. 550 to Rs. 1,270, none of whom are Indians. There are 24 temporary Engineers on salaries ranging from Rs. 500 to Rs. 1,250, of whom only one is an Indian. That is, out of 190 persons on salaries ranging from Rs. 500 to Rs. 2,750, there are only 11 Indians. Let us take another department of the railways, the directing one, *viz.*, the Managers and Sub-Managers. There are eight posts with salaries ranging from Rs. 1,800 to Rs. 3,000, and there is no Indian amongst them. Then the Traffic Department—the Superintendents and Deputy Superintendents and District Superintendents, whose number is 50, on salaries ranging from Rs. 600 to Rs. 2,000, of whom there is only one Indian on Rs. 700. There are 62 Assistant Superintendships on salaries ranging from Rs. 250 to Rs. 500, of which only 7 are held by Indians. In the Locomotive Department, in which there are about 100 appointments on salaries ranging from Rs. 250 to Rs. 2,000, there is only one Indian who is an Assistant Superintendent, and he too is an Honorary Assistant Superintendent. In the Carriage Department there are 15 places on salaries ranging from Rs. 350 to Rs. 1,600, and there is not one Indian employed. In the Stores Department there is only one out of nine. In the Bridge and Signalling Departments there are 12 superior posts carrying pay up to Rs. 1,050, none of which are held by Indians. The tale does not stop there. If we go to the Subordinate Revenue-establishment even there we find that among the subordinate engineering staff consisting of 42 persons on salaries ranging from Rs. 250 to Rs. 500 only 4 or 5 are Indians. In the Signalling Department there is no Indian. In the Traffic Subordinate Branch, including traffic inspectors and station-masters, out of 72 persons on salaries ranging from Rs. 250 to Rs. 500, there are only 4 Indians. In the Locomotive Department, out of 131 upper subordinates, only one is an Indian. Now, Sir, what I would ask the Council to consider, what I would ask the Government to consider, is this: if Indians can manage (I do not look into the past but confine my attention to the present) not only States, but in British India can be entrusted with the management of districts, if they can hold the position of District Judges and Sessions Judges, if they can be Executive Engineers and Superintending Engineers, how is it that in the railways they are practically excluded from all the higher appointments? The question was raised in another aspect at the Allahabad Educational Conference, and there two conflicting reasons for this absence of Indians were advanced. One reason was that there were effective courses of instruction provided at Rurki and elsewhere, but Indians did not care to take advantage of them. Another which was put forward was that the persons who were trained in this country in the colleges established by Government are not sufficiently qualified to be entrusted with railway engineering work. This was said with reference to the Civil Engineering portion of the Railway Engineering Department. Well, I do not wish to say anything further, because in regard to this matter certain recommendations have been made which if given effect to are calculated to remove the grievance. There is some kind of explanation coming forward in regard to the Engineering Branch of the State Railway Services. But in the Traffic Department and in the other Departments there can, Sir, be no excuse whatsoever. It cannot be said that Indians cannot manage our bigger stations; it cannot be said that they cannot be Traffic Inspectors and Traffic Superintendents. Their exclusion is one which I hope the Railway Board will seriously take into consideration, and do their utmost to remove. How entirely excluded they are, the figures which I have placed before the Council demonstrate very clearly. But if in the railways managed by the State there is this very inadequate employment of Indians, when we go to the State lines which are managed by companies the case is worse. It might be said that those are private companies and the Government have no right to control their action. That, Sir, is a principle which must be vigorously repudiated; for this reason, that they are companies to whom special privileges have been granted over the State railways, and they ought to be made to conform to principles the justice and propriety of which have been over and over again admitted by Government. Now,

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I shall take the case of a few of the more important railways. In the Great Indian Peninsula Railway there are 7 appointments on pays ranging from Rs. 387½ to Rs. 3,500 in the Agent's office, in which there is no Indian. In the Audit and Accounts Department there are 15 appointments on pays ranging from Rs. 292 to Rs. 2,000, and there is no Indian. Whether Indians are fit in the Accounts and Audit Department or not is shown by the fact that posts of Accountants General and Deputy Accountants General are held, and held with credit, by Indians. In the Engineering Department there are 78 appointments carrying salaries ranging from Rs. 400 to Rs. 2,000, and there is only one Indian on Rs. 480, and he too is only an Assistant Engineer. In the Traffic Department there are 28 appointments on pays ranging from Rs. 250 to Rs. 2,638, and none of them are held by Indians. In the Locomotive Department there are 20 appointments on salaries ranging from Rs. 600 to Rs. 2,200, none of which are held by Indians. In the Carriage and Wagon Department there are 5 appointments on salaries ranging from Rs. 500 to Rs. 1,700, none of which are held by Indians. In the Stores Department there are 6 appointments on salaries ranging from Rs. 300 to Rs. 1,275, none of which are held by Indians. In the Medical Department there are 8 places on salaries ranging from Rs. 400 to Rs. 1,200, none of which are held by Indians. Indians are not even fit for employment as railway doctors! I shall take one more instance—that of the East Indian Railway. There are 7 appointments on Rs. 400 to Rs. 3,500 in the Agent's Office, and there is only one appointment on Rs. 500 held by an Indian, and he is a Vakil. In the Audit and Accounts Department there are 12 appointments on pays ranging from Rs. 400 to Rs. 2,500, but one only is held by an Indian on Rs. 600, namely, the Treasurer. In the Medical Department there are 10 appointments on salaries ranging from Rs. 480 to Rs. 1,500, none of which are held by Indians. In the Stores Department there are 5 appointments on salaries ranging from Rs. 400 to Rs. 1,500, none of which are held by Indians. Even in the Printing Department no Indian is employed in any of the upper posts. In the Engineering Department there are 49 appointments with salaries from Rs. 850 to Rs. 2,750, none of which are held by Indians. In the Electrical Department there is no appointment held by Indians. In the Traffic Department there are 41 appointments on Rs. 500 to Rs. 2,500 and 21 appointments on Rs. 250 to Rs. 500, only one of which was held—it is no longer held now—by an Indian. That Indian resigned some time ago and his place was given to a European. In the Colliery Department the same is the case. I shall not go on piling more facts. In the Bombay, Baroda and Central India Railway, in the Bengal-Nagpur Railway and in the Madras Railway things are very much the same. In the Bengal-Nagpur Railway there is a very very slight difference, but after all it is only three or four places more than what exist elsewhere.

“Here Sir, are State railways which are owned by the State, or railways which are subsidised by the State, and it is, I think, Sir, the duty of the Government to see that those railways do give fair play to Indian talent and to Indian ability. Sir, it is as much in the interests of England as of India, that due scope should be accorded to Indian ability. If Indians have to feel that they are members of the Empire, then they must be able to feel that they can rise to the height of their stature in this empire. There ought to be no studied exclusion, as there seems to be in certain departments, of Indian talent and Indian ability. I shall close, Sir, with making the appeal to the Council and to the Government.”

The Hon'ble Mr. MADGE: “Sir, this is one of the most difficult and delicate questions that this Council has been called on to consider since its formation. I cannot pretend to come to it with a wholly unbiassed mind, but I will try, according to my lights, to look at both sides of the question as far as I can! There is first the Government side as it appears to a non-official. It has been said over and over again that the British Government of this country is the best that the country has ever known. That statement has not been made only by Englishmen; it has been made by French and Russian travellers through this country, and it is entitled to a certain amount of consideration from everybody

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who loves this country. For, Sir, if the Government of this country is a sound one, its soundness cannot have been evolved from theories; it has been evolved from men who have done its work; and I think it is only due to the character of Englishmen as a whole to say that the soundness of this Government is mainly attributable to the character of the men who have carried it on in the past. No doubt, instances may be given of gross injustice; every one of us can give instances in which strange injustice has been done to particular individuals owing to defect of judgment or want of character in particular persons. I do not know that my own community has not suffered more than Indians in this respect. But, Sir, I think I may fairly claim that these instances are occasional; they are accidental; they have not been nearly so numerous as to make any stain upon the character of the administration as a whole. The administration has stood in the eyes of competent critics as one of the wonders of the modern world, and I think our Indian friends should pay some little attention to that fact in any remarks that they may have to offer. Now, Sir, if a British tone is needed in the administration, I would say that the British tone is not like the grin of the Cheshire cat in *Alice in Wonderland* which remained on the tree after the cat had disappeared. It is necessary to maintain Englishmen in a certain preponderating strength in this country in order to perpetuate that tone. Remarks have been made about the future of the Government of this country by Members and by Indians outside, and I think that the glamour of that sort of thing ought not to be thrown over a discussion like this one, which is intended to be thoroughly practical. We should consider the present conditions as they actually are. What proportion of Englishmen should be retained in the administration of the country? That is the real question that has to be solved. Whether a responsible and disinterested Government are the best judges of that proportion or irresponsible and interested critics is a delicate question in its way. I do not for a moment claim for the Government infallibility in this or in any other matter; but I do say that, because the Government of the country has on the whole been impartial and just and good, some credit must be allowed to it in its decisions as regards the proportion of Europeans that ought to be maintained in the administration. I do not think that a number of Englishmen of character and education would deliberately do wrong in this matter out of social or racial prejudice. That social and racial prejudice does exist in this country I unhappily am too well aware, and I do not mean to minimise that evil in the administration at all; but speaking generally, Sir, I feel that the character of the administration is such that we must give the Government credit for trying to introduce as much of an Indian element as possible. This particular time, when we have had Indians introduced into the very highest ranks of the administration, is a period when we should all admit that we owe something to the Government for what it has done. It has been said that in particular departments of the State more Indians ought to be introduced into the administrative ranks. I myself firmly believe that science knows no climate, and where scientific attainments are shown by Indians, they ought undoubtedly to be advanced to higher posts; but, Sir, the element of administration also enters into, and is so closely allied with, scientific and professional operations, that sometimes it is very hard to distinguish what to do in particular cases; and one advantage of a Commission such as has been suggested, and which I would warmly support, is that if a really honest and earnest enquiry is made into the matter, it will be found out exactly what can be done. I have seen it stated in the newspapers that Lord Northbrook left upon record a memorandum of some kind or another in which he said that owing to the fatalistic tendencies of some of our Indian friends (I am not responsible for this report and I do not know whether any such memorandum was ever left or not, but I have seen it stated as a fact), they have not that sense of responsibility for life developed in them that most Englishmen have. How far this may be true is a matter on which the Railway Board might give us useful information when they report on the results of those enquiries that have been made into railway accidents. It must be a very difficult thing to decide what test should be employed to find out what is wanted; what is needed is not literary attainments or quotations by

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the yard from literary books, but solid character. It is really one of the most difficult problems to decide what tests to apply.

"I must say that I am one of those who think that simultaneous examinations in this country would be a snare and delusion which would lead to a number of literates being brought forward as candidates who would possess none of the requisite qualifications. I said, Sir, on a former occasion that as regards Englishmen the competitive examination was introduced in 1853-54, for the reason that it was supposed to be the best means of finding out a certain standard of education for a class of young men who were supposed to possess the character of their race in other respects. Unless we can find out a test which will test character as well as literary attainment, there arises a great difficulty, and I hope that our Indian friends will lay themselves to the difficult task of finding out by what means character is to be discovered. No man in his senses, who has read the career of Sir Madhavo Rao, or any other Indian gentleman of that kind, would stand up here, or anywhere else, and say that the highest character and highest administrative talent are not to be found in this country. The means by which such men have been found and been brought out is one that ought to be enquired into and carefully examined. What we do want, Sir, is individual character, and I do hope that if the Government can find out means for testing character that it will be just to our Indian fellow-countrymen as well as to the domiciled community.

"As regards the public services, instances have been brought to my notice in which very serious injustice has been done in the Survey Department, in the Public Works Department and in the Telegraph Department. I for my part am willing to believe that this injustice has been done unwillingly; but there it stands, and you convert men who might be very efficient officers into discontented men for the rest of their lives, for no fault of their own, but because means have not been discovered by which true worth is to be rewarded. I do not mean to descend into personalities; I could give a few instances, which would shock everybody here, of gross injustice; but Sir, as I have said, I think and I believe that these are exceptions. I agree with the remarks that have been made about the brand of inferiority that has been put upon local talent by the Public Service Commission. It was a fatal mistake to close the door to real talent in any department of the State. When Mr. Samuel Laing succeeded the first Finance Minister, Sir James Wilson, he opened the Financial Department to indigenous talent, and this Department brought to the front men like Sir George Kellner, who would under the old and the revised system have been branded as inferior and stamped down into obscurity. That gentleman not only rose to the highest eminence in this country, but on retirement was got hold of by the British Government and sent to Cyprus as their Financial Minister. His brother Edwin also rendered good service in the Financial Department. Mr. Robert Hollingbery came forward and wrote books on the gold question and on the permanent settlement that have become text-books to everyone who has written on the subjects since; and I am quite sure that there are amongst our Indian fellow-subjects and ourselves men of the same stamp. The difficulty lies, Sir, in finding out certain branches of the administration in which you can trace peculiar kinds of talent. I see the difficulty and I admit it, and I feel incompetent to suggest any method by which that strange mixture of administrative talent with professional ability is to be, as it has before been, found; but I am quite sure that it is to be found. I have come across men of wonderful ability; men who would be a credit to any Government in any department of the State; and it is a great pity that men of that kind should be stamped down by any artificial rule."

The Hon'ble LIEUTENANT MALIK UMAR HAYAT KHAN: "Sir, though this resolution may look very pleasing to certain people, who may hope that it will open to them a larger number of posts, yet a close examination will disclose the fact that such is not the case. The first objection is that the expenditure incurred on such a Commission will serve no useful purpose. Sitting here one can scan the lists of gazetted officers and ascertain from them the number and class of appointments held by Indians and Europeans. There are, I think,

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in each of the rural districts not more than one, to three, English officers who are at the head of departments and who mostly do the work of supervision, while the rest of the work is carried on by our own people. I think that from the administrative point of view this supervision by European officers is much needed at the present stage. There would be many objections under any other arrangement.

"A district, for instance, consists of various classes of people of different creeds and religions who require some disinterested man to safeguard the interests of all, for a man belonging to one class will naturally have a prejudice for people of that class. Even if the head of the district was not biased, many of his subordinates will think him so, and, as such people look at things from their own point of view, a feeling of distrust in his administration would almost certainly be aroused.

"Again, an Indian will sometimes find himself in an uncomfortable position when strong and prompt action against a class is required to be taken, for unless he has very great force of character he may hesitate to act at once, fearing that his motives may be misconstrued or misrepresented. Such a feeling would tend to make his administration weak, and experience has shown that on several occasions failure has resulted from it.

"An Indian officer will not always be looked upon even by his own people as an European officer, and the consequence of this would be that his authority, especially in criminal administration, would fail to command the same weight. That I mean to say only about rural districts and its present state.

"Indians now hold appointments under the Crown of all degrees, from the lowest to the highest. Every man who holds an appointment, of whatever nationality he may be, is bound to show his capacity or want of it, and there is no reason to believe that when he has proved his fitness his claims to higher appointment will not be considered.

"There seems little value in holding an inquiry into the more extensive employment of Indians in the Public Service, for it has been the constant policy of the British Government to employ them as extensively as possible, and it is difficult to see what benefit is likely to result from such an inquiry. In my opinion, too, an inquiry into the claims of Indians to higher employment is unnecessary, nor will the result of such inquiry be likely to help the object with which the resolution has been brought forward.

"Many able and overzealous people, possessing high ideals, move at such a fast pace that they get out of touch with the feelings of the rural masses, whose pace is much slower and who form the largest, quietest and most loyal portion of His Majesty's subjects. Their interests require to be protected, and I am voicing the feelings of a vast majority of them when I say that any big scheme entailing a departure from the present system is unnecessary at present, although I quite agree that fit men should be gradually given chances of reaching higher offices.

"With these few remarks, Sir, I beg to differ from my Hon'ble friend as regards the propriety of having a Joint Commission at present, but agree with him otherwise."

The Hon'ble MR. GOKHALE: "Sir, before I say a few words on the resolution which my Hon'ble friend has brought forward, I would like to offer him my congratulations on the industry and care with which he has prepared his case and the ability with which he has presented it to the Council. Sir, this question is undoubtedly one of great importance, and, like all questions of great importance, it is beset with great difficulties. I am anxious to approach it with as much fairness as I am capable of, because there are undoubtedly two sides, and while I am keen that the aspirations of my countrymen should receive fair and reasonable recognition from the Government, I should be very unwilling not to recognise at the same time the difficulties that lie in the path of the Government in dealing with this subject.

"Sir, one of the fundamental conditions of the peculiar position of the British Government in this country is that it should be a continuously progressive

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Government. I think all thinking men, to whatever community they belong, will accept that. Now, I suggest four tests to judge whether the Government is progressive, and further whether it is continuously progressive. The first test that I would apply is what measures it adopts for the moral and material improvement of the mass of the people, and under these measures I do not include those appliances of modern Governments, which the British Government has evolved in this country, because they were appliances necessary for its very existence, though they have benefited the people, such as the construction of Railways, the introduction of Post and Telegraphs, and things of that kind. By measures for the moral and material improvement of the people, I mean what the Government does for education, what the Government does for sanitation, what the Government does for agricultural development, what the Government does for industrial development, and so forth. That is my first test. The second test that I would apply is what steps the Government takes to give us a larger and larger share in the administration of our local affairs—in municipalities and local boards. My third test is what voice the Government gives us in its Councils—in those deliberative assemblies, where policies are considered; and lastly, we must consider how far Indians are admitted into the ranks of the public service.

“ Now, Sir, as regards the first test, I believe that is what one feels to be in the air—I believe that we are on the eve of important measures being taken by the Government, and in those measures both the officials and non-officials can and should heartily co-operate with one another. As regards the second, I trust that, as a result of the Decentralization Commission's labours, a further advance will soon be made. A fair beginning has already been made, and when we have a further advance in the same direction, we might be expected to remain satisfied with that for some time. As regards deliberative assemblies,—the Provincial and Imperial Councils,—the reforms that have recently been introduced constitute an important advance, and for some time, therefore, that question may rest there. When, however, we come to the last question, we strongly feel that the time has come when something must be done to improve matters, and I hope something will soon be done. Sir, I have already observed that the Government has to be a continuously progressive Government, and that it cannot afford to rest on whatever it has done in the past in any one of these directions. Now, taking this question of the employment of Indians in the higher ranks of the public service, which I admit is a very difficult question, I would like to refer briefly to what my Hon'ble friend Mr. Subba Rao has already pointed out, namely, that there are four or five distinct landmarks in regard to this matter in the history of British rule. In 1833, when Parliament laid down that there should be no distinction of race in making appointments to the public service in this country, the British nation gave a noble pledge to the people of this country of its own accord. There was no agitation here at that time,—in fact, there was hardly any Western education. It was a great pledge to give, and it was given by the British nation spontaneously. The next landmark is 1854, when the competitive examination was thrown open to Indians along with Europeans. The old Haileybury system was abolished and competition was introduced, and it was thrown open to all. The Queen's Proclamation of 1858 constitutes the next landmark. Even then there was no agitation for a wide employment of Indians in the public service for the simple reason that the Universities had not then been established, and there was no large educated class. In 1861, when the Secretary of State appointed his Committee, to which my Hon'ble friend has referred, it was again more the conscience of the English people than any demand made from this side that led to the appointment of that Committee. When the Act of 1870 was passed—that is the next landmark—there was some public opinion here, and a few Indians—notably Mr. Dadabhoj Naraojee—had been agitating in England for the admission of Indians to high office; but even then, the main part of the work was done by Englishmen, by English friends of our aspirations, who felt that the arrangements existing at that time were not quite just to the people of India. When, however, the Public Service Commission was appointed in 1886—that is the next landmark—the position was much altered. By that time



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a large educated class had come into existence, and that class keenly felt its own exclusion from the higher ranks of the Public Service. The Commission was appointed with the declared object of devising means for the larger admission of Indians in those ranks, and as the results of the Commission's labours have, on the whole, been disappointing, there is no doubt that that constitutes a legitimate ground of complaint for the people of this country.

"Sir, it is interesting to note at what intervals these successive steps in advance were taken. From 1838 to 1854 or 1858, whichever you take, there was an interval of 20 or 25 years. From 1858 to 1870, when the next step was taken, there was an interval of 12 years. In 1886, when the question was again examined, it was after an interval of about 16 years. Since then, however, there has been no inquiry,—that means during a period of 25 years,—and that is one reason why I urge that the resolution of my Hon'ble friend should be adopted. It is true that during the last three or four years some very striking appointments to high office have been made. My friend, Mr. Ali Imam, sits on that bench there; two Indians sit in the Secretary of State for India's Council; an Indian recently held the position of Advocate General at Calcutta, and Indians have even been appointed to act as Chief Justices of different High Courts. These striking appointments have no doubt impressed the imagination of the people, and there can be no question that they are deeply appreciated by my countrymen. But our grievance is in regard to the bulk of appointments in the higher ranks; and that grievance is not really touched by these appointments. And so far as that grievance is concerned, the labours of the Public Service Commission resulted in little substantial improvement for us in practice. And indeed in some departments, the position has been rendered actually worse. My Hon'ble friend, Mr. Subba Rao, has pointed out how in regard to the central Civil Service, the recommendations of the Public Service Commission and the orders passed by the Secretary of State on those recommendations have actually put us back, compared with the statutory service rules of 1879. The rules of 1879 gave us  $\frac{1}{3}$ th of the total recruitment of Civilians for this country. Now, taking the cadre at about a thousand posts—it may be a few more or a few less—we should have had about 160 Indians, under those rules, in the central Civil Service. The Commission, however, recommended only 108 posts for us in place of 160, and the Secretary of State cut the number down to 93; and that is the number we have at present. I believe even the whole of these 93 are not yet held by Indians. I think we are about 10 short of what the Secretary of State promised at that time leaving out of account the additions made subsequently for Burma and Assam. Now, Sir, the Secretary of State's orders were passed in about 1890 or 1891, and twenty years have elapsed since then. If for nothing else, at least for the fact that it is now 25 years since the appointment of the Public Service Commission, and 20 years since the Secretary of State passed his orders on the recommendations of that Commission, I urge that there should be a fresh enquiry into the whole matter. But Sir, I say something more. I say that as a result of the labours of the Public Service Commission, the position of Indians in many branches of the public service has actually been rendered worse, and that should now be set right. In the first place, Sir, the Public Service Commission recommended that there should be a division of the public service into Imperial and Provincial. Now that was a most unfortunate recommendation. I am quite sure that the President of the Commission,—the Lieutenant-Governor of the Punjab of that time,—a man of broad sympathies, undoubtedly did not want to put the Indians back; but the result actually has been to put us back, and this for two reasons. First, there is a stamp of inferiority on the Provincial men, and they are bound to feel that. Secondly, if you have these artificial divisions of Imperial and Provincial, the abler men in the Provincial Service—I mean those who are abler even than some of the men in the Imperial Service—cannot help feeling that the arrangement is most unjust to them. I am, therefore, strongly of opinion that this division between Imperial and Provincial must go. I hope it will go soon, and unless it does we shall have to bring up this matter again and again before this Council. Then, in two departments particularly, this division between Imperial and Provincial has done greater harm to us than in other departments—I mean the Education and the

Public Works Departments. In some of the other departments, the creation of a Provincial Service has to a certain extent improved the prospects of Indians, so far as mere numbers are concerned, because there were hardly any Indians employed in those departments before and the constitution of the Provincial Service has given them some chance there. But in the Education and Public Works Departments, we have suffered a great set back. In the Education Department, for instance, Indians were on terms of equality with their English colleagues before the creation of a Provincial Service. The scale of salary was, no doubt, two-thirds, but in other respects they were on equal terms. But they have now been put into a distinctly subordinate position and we see on every side the most flagrant cases, which hurt every body. Thus we find men of most distinguished attainments in the Provincial Service simply because they are Indians, and men who passed their examinations only yesterday, and who have so far earned no distinction by their work, in the Imperial Service, simply because they are Europeans. I will give only one instance. There is a gentleman here in Calcutta, named Dr. P. C. Roy, a most distinguished man of science, a man who has been honoured by French and German *savants*, a man adored by his pupils, a man who has been doing original work for the last 20 years and more. But he is still in the Provincial Service, whereas young men, fresh from College, without any original work to their credit, men who are admittedly his inferiors, are brought out to this country and put over his head, simply because he happens to be in the Provincial Service and they are brought out as members of the Imperial Service. Now, Sir, this sort of thing hurts not merely the men who are actually affected by it, it hurts the students studying under them. In other departments any injustice done to an Indian official concerns that official only. In the Education Department it affects the students as well; the bitterness passes from the professors to the students, and the whole student community comes to be affected by it.

“Take again the Public Works Department. At one time Indian and European Engineers were all on terms of absolute equality not only as regards status but even as regards pay. In 1892, differential rates of pay were introduced for the first time—two-thirds pay for Indian Engineers. Now, under the new re-organization scheme, the status of the Provincial Engineers is reduced still further, for they are now to be put on a separate list. Thus, in this Department we were at first on terms of absolute equality with Englishmen. Then our pay was reduced to two-thirds, though in regard to other matters equality was maintained. Finally, it is now decided to do away with this equality by putting us on a separate list altogether. And not only is this applied to new men but a most unjust and unjustifiable attempt has been made to apply it to old men recruited since 1892. There are about 100 men who are the victims of this gross injustice. There is the definite word of the Government pledged to them in 1892 that they would be on the same list as the Imperial Engineers, and yet it is proposed now to put them on a separate list—a distinct breach of faith. These men have not yet accepted the arrangement, three years have passed, and they have so far got no redress. The Secretary of State is still waiting for the despatch of the Government of India which should have gone long ago. I asked a question the other day on the subject, and the Hon'ble Mr. Carlyle gave an answer, in which I see an element of hope. I, therefore, will not press this question further to-day, but, if necessary, I will bring a resolution on this subject at Simla.

“I urge then, first of all, that this distinction between Imperial and Provincial must go. The second respect in which we have lost ground since the last Public Service Commission is in regard to competition. Gradually competition has been abolished more or less throughout the country and we are now made to depend almost exclusively upon Government nomination, pure and simple. Now, I am quite alive to the defects of competition as a method of filling Government offices. Of course it is not ideally the best method, but I contend that it is the best method available. In a country like this, governed by Englishmen, who are unfamiliar with our ways, and cannot instinctively understand the difference between one individual and another, they are at times apt to be misled by appearances, by recommendations and

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by a lot of other considerations owing to the very peculiarity of their position. And I submit that competition, with all its defects, is any day better than nomination, pure and simple. An Englishman, judging of English candidates, may dispense with competition, because there is a great deal of initial knowledge that may be taken for granted on account of their belonging to the same society. Here the individuals belong to different societies and that initial knowledge is lacking, and nomination, I contend, is bound to lead to abuses—haphazard selection and favouritism. My second point, therefore, is that competition must again be restored, for making selections for Government service.

“ I will now say a word about one or two other Departments. I have said that in the Public Works and Education Departments, our position has grown worse. In the Medical Department, while it has not grown worse, it is still most unsatisfactory. The professorships are all the monopoly of the Indian Medical Service Officers and the hospitals are closed to all non-service men. Recently they have thrown open the Professorship of Anatomy in the Calcutta College to non-service men, but the moment it is thus thrown open to non-service men, it is rendered altogether unattractive. There used to be a pension attached to this post till now, and private practice was hitherto allowed; but it is now declared that there is to be no pension, there is to be no private practice, and the new man will get no house allowance, when every one else is getting it. Thus the moment the post is thrown open to non-service men it is made altogether unattractive for our best men, and I would like to have an explanation as to why this has been done. Take again the question of the Chemical Analysers in Bombay and Karachi. Some years ago, the Secretary of State decided that these appointments should not be the monopoly of the Indian Medical Service. And there is a distinguished man in Bombay available for these appointments to-day, doing for years the work of Assistant Chemical Examiner. The Indian Medical Service men, appointed as Chemical Analysers, receive their training under him, and then they are put over his head. I understand the Government of Bombay is anxious to help this gentleman; but the matter rests with the Government of India, and somehow his ability and record of services receive no recognition from them.

“ Lastly, I come to the Department of Railways. I am not going into the question in detail to-day, because my friend the Hon'ble Mr. Mudholkar has already dealt with it exhaustively. Here we are almost entirely excluded from all higher appointments, and I hold that this is absolutely indefensible. It cannot seriously be contended that Indians are not fit for any place in the Railway Administration above Rs. 200 a month, when you can put them on the Government bench there, make them Chief Justices of High Courts or entrust them with the management of districts and divisions. To those who speak of such unfitness, I would like to mention an interesting episode. It refers not to the Railway Department, but to another Department,—the Survey Department,—but the principle is more or less the same. Not many years ago, there was a controversy about the position of Indians in the Survey Department, and it was contended very vigorously by the champions of European monopoly that Indians were not fit for the work, and that therefore they should be kept out. Unfortunately a report, submitted by Colonel De Prée, who was then the head of the Survey Department and who was a strong advocate of Indian exclusion, came to be published, and this was what he was found to say in that report :

‘ I may here remark incidentally that my numerous late inspections show me that the tendency of the European surveyors is to stand and look on, while the Natives are made to do the drawing and hand-printing, as if they thought themselves quite above that sort of thing. This is a mistake and cannot be permitted for the future. Besides, it is suicidal for the Europeans to admit that Natives can do any one thing better than themselves. They should claim to be superior in everything, and only allow Natives to take a secondary or subordinate part. In my old parties, I never permitted a Native to touch a theodolite or an original computation, on the principle that the triangulation or scientific work was the prerogative of the highly paid European, and this reservation of the scientific work was the only way by which I could keep a distinction, so as to justify the different figures respectively drawn by the two classes—the European in office time and the Native who ran him so close in all the office duties as well as in field duties. Yet I see that Natives commonly do the computation work, and the Europeans some other inferior duties.’

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"Sir, I beg, with all respect, to make a present of this extract to the Hon'ble Sir T. Wynn! One word more, and I have done. Sir, I have admitted that the question is a difficult one, but what I urge is that there should be continuous progress. Nobody urges that the English element should be withdrawn suddenly or even largely, but unless Indians are introduced into the higher ranks in larger and larger numbers, the discontent which the Government are anxious to remove is not likely to disappear. With those words, I strongly support the motion which my Hon'ble friend has brought forward."

The Hon'ble SURGEON GENERAL LUKIS: "Sir, with your permission I should like to say a few words on the subject of the encouragement of independent medical practitioners whose case has been so ably dealt with by the Hon'ble Mr. Gokhale, and in so doing I wish to point out to the Council the various steps that have been taken by Government to improve the position of these gentlemen and also to indicate the lines on which, if they so desire it, they can help themselves. I wish it to be clearly understood, however, that I must not be regarded as the mouthpiece of Government or as holding any brief for the Indian Medical Service. I merely speak as one who has devoted 12 years of his life to teaching medicine in this country and whose interest in the spread of medical knowledge and in the improvement of the status of Indian medical practitioners is just as keen as is that of the Hon'ble Mr. Gokhale in the equally important subject of primary education. Now, Sir, when one considers the status of the Indian medical practitioner in this country, one finds that he labours under three disadvantages which are not shared by his professional brethren in the West. In the first place, when a private medical student has passed his curriculum and obtained his diploma or degree, he is practically debarred from holding any of the important appointments of house surgeon or house physician in the large Government hospitals; these appointments being, as a rule, reserved for civil assistant surgeons. Recognising the importance of this, the Bengal Government has agreed to the suggestion of the Government of India that in future the posts of house surgeon and house physician in the various large Calcutta hospitals shall be thrown open to the most deserving students of each year; whether or no they wish to enter Government service. This, Sir, is a very important boon, and I hope that future generations of medical students and young practitioners will take full advantage of it.

"The second disadvantage under which he labours is that here in India there are no opportunities whatever for post-graduate studies such as exist in connection with all the large medical schools in England and Europe. The result of this is that when a young practitioner goes out to a remote mofassal district, where he is probably over-worked and underpaid and has neither the leisure nor the facilities for study, he fails to keep himself abreast of the times and he very quickly lags behind in the race. Here, again, Government recognises that this is a tremendous drawback and that it militates very largely against his successful career. The Government of India, therefore, is now formulating a scheme for the establishment of a School of Tropical Medicine in Calcutta which it is hoped will be affiliated to the Calcutta Medical College; and for the introduction of a Diploma in Tropical Medicine in connection with the Calcutta University. This School of Tropical Medicine, if it takes shape, will afford facilities not only for post-graduate studies, but also for original research, and it will be open to all properly qualified medical practitioners, whether official or non-official. You will see, therefore, that the young medical practitioner will now have a chance of coming back to his hospital and furnishing up his knowledge; or, if he wishes to do original work, he will have every opportunity afforded to him in the research laboratories attached to the Tropical School of Medicine.

"The third disability to which he is subject—and this is the one upon which Mr. Gokhale laid most stress—is that the independent medical practitioner cannot obtain a share of the professorial and hospital appointments in connection with the big Government medical colleges. That of course is a great disability and it is one that has the serious attention of Government; but it is not for me to enter into it here. In this connection, however, I should like

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to draw the attention of Council to certain very sensible advice which was given to the Bombay medical men by Dr. Temalji Nariman when he was entertained at dinner in August 1908 by over a hundred Indian medical men. In the course of his speech Dr. Nariman said :

'If Indians wish to bring into existence a profession of native doctors, they should not banker after one or two minor professorial posts in the Grant Medical College of Bombay, but should all unite and set to work to found a medical college of their own.'

"Later on in his speech he went on to say :

'It is only when we have a large number of teachers with hospital experience that we shall be in the position of an independent profession, and by perseverance, industry and self-sacrifice we are bound to produce young men who will adorn our profession and leave their names to posterity as those of Jenner, Harvey, Lister or Simpson. Founding hospitals alone will not elevate our status. We must have our own college, with laboratories, where some of our best men may carry on original research work. It may take years for its completion, but let us make a beginning.'

"That, Sir, is very wise and statesmanlike advice. I strongly recommend it to the careful consideration of my Indian colleagues, and I beg of them not to be satisfied by merely obtaining a proportion of the professorial appointments in Government medical colleges. Let them also unite and found medical colleges of their own.

"In the very excellent speech which we listened to with such interest yesterday, the Hon'ble Mr. Gokhale, when pleading the cause of primary education, said that this was a case in which it was necessary that there should be the cordial co-operation of the Government with the public. May I be allowed to invert the terms and say 'This is a case where we want the cordial co-operation of the public with the Government.' I hope that the wealthy and charitable public will bear this in mind, and I can assure them that if they will do anything to advance the scheme for the institution of unofficial medical colleges, entirely officered by Indians, they will not only be conferring a benefit on the profession, but on their country at large."

The Hon'ble MR. GOKHALE : "What about institutions maintained out of public funds, public monies ?"

The Hon'ble SURGEON GENERAL LUKIS : "I am not dealing with appointments held by the Indian Medical Service. It is well known that the Government medical colleges and schools cannot accommodate more than a fraction of those who ask for admission. In Calcutta alone, as I know from personal experience, over 200 candidates have to be rejected every year, and there is, therefore, ample room for well-equipped and properly staffed unofficial medical colleges and schools which may be either affiliated to the University or run on the same lines as a Government medical school, but entirely conducted by Indian medical men ; and I look forward to the time when in every important centre in India we shall have well-equipped unofficial medical schools working in friendly rivalry with the Government medical schools and each institution striving its hardest to see which can get the best results at the University examinations."

"As Dr. Nariman said, this may take years to accomplish, but I earnestly hope that, before I say farewell to India, I shall see it an accomplished fact, at any rate in Calcutta and Bombay ; and if I have said anything to-day which will induce the leaders of the people to give this scheme their cordial support, I feel, Sir, that I shall not have wasted the time of the Council by interposing in this debate."

The Hon'ble MR. SACHCHIDANANDA SINHA : "Sir, I rise to give my support to the motion before the Council. I shall very briefly state the grounds on which I do so. It seems to me that there are several reasons why the Government should be pleased to appoint a Commission or Committee to enquire into the question of the appointment of Indians in the higher ranks of the public services. Since the last Commission was appointed and reported, certain rules have been

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introduced, for the first time, which take away from the Indians the privilege of competing with their British fellow-subjects in examinations held in England. The Hon'ble Mr. Subba Rao has referred to the examination held in England for the police, in which, in terms, the Indians are excluded from competing; and it seems to me, Sir, and has always seemed to me, a grave infringement of our rights as British subjects that we should not be allowed to compete for any appointments in our own country. I think a Commission would certainly go into a matter like that.

"The second reason, Sir, why I urge the appointment of a Commission is that the list of those appointments which were thrown open to the Provincial Service and are known as 'listed posts' has not been revised for the last twenty years. In 1893, when the House of Commons passed a resolution about simultaneous examinations for the Indian Civil Service, the Government of India sent home a long despatch on the subject embodying the opinions of the different Local Governments and Administrations; and in that I find that Sir Anthony, now Lord, MacDonnell, who was then officiating Lieutenant-Governor of the Lower Provinces, said:

'Let them (Indians) in due time press for a further increase in the scheduled posts to be "listed" or transferred to the Provincial Service; let them on a suitable opportunity urge that the . . . the . . . posts now transferred shall be increased . . . All that is necessary now to do is to recognise and provide by rule that this division or the appointment of posts to each class, shall be from time to time revised.'

"This was the suggestion of Sir Anthony MacDonnell, and I find that the Government of India also embodied that suggestion in their despatch to the Home Government. They said:

'There is no finality about the lists of "covenanted offices," which have been thrown open to members of that (Provincial) Service. These lists have been prepared with reference to proximate possibilities; but they are capable of alteration and expansion from time to time as circumstances may require or permit.'

"Now, Sir, there has been a remarkable progress in the country in education during the last 25 years, and I think for this, if no other reason, the Government should appoint a Commission to go into this matter and see to what extent the people of the country are entitled to have these 'lists' amplified and revised. But I think, Sir, that I can go further and say that it seems to me, that, apart from the revision and amplification of these lists, which is now surely desirable, the time has come when this artificial boundary between the Provincial Service and the Indian Civil Service should no longer be maintained. For these reasons, I gladly support the resolution."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "Sir, I shall not take up the time of the Council by going into the details of the appointments in the different departments which have already been fully dealt with by other Members. The result of the discussion shows that in many departments Indians are not getting their fair share of the public appointments. The principle that they should freely and impartially be appointed to every office in the different departments for which they may be qualified has long been admitted. I do not think there is anything left to be desired in that direction either in the words of the Statute of 1833 or the Proclamation of 1858, or the subsequent declarations of Government on this question.

"The second point that has been brought out in the discussion by the Hon'ble Mr. Subba Rao is this, that the root of the evil of the exclusion of Indians from high offices lies in not holding simultaneous examinations for the Indian Civil Service in this country as well as in England. In the discussion in 1853, when the throwing open of the principal civil appointments in India to competition was under discussion, this was anticipated. Many members at the time pointed out that, while the Statute did not exclude Indians in terms from the Civil Service, still by requiring that the examinations for it should be held in England alone, it was practically excluding them from those appointments. I will refer to one or two of the speeches of those who took part in the debate. For instance, Lord Stanley said that he could not refrain from expressing the conviction that, 'in refusing to carry on examinations in India as well as in

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England—a thing that was easily practicable—the Government were, in fact, negating that which they declared to be one of the principal objects of their Bill and confining the Civil Service, as heretofore, to Englishmen. That result was unjust, and he believed it would be most pernicious. Let them suppose, for instance, that instead of holding those examinations here in London, that they were to be held in Calcutta. Well, how many Englishmen would go out there—or how many would send their sons perhaps to spend two or three years in the country on the chance of obtaining an appointment! Nevertheless that was exactly the course proposed to be adopted towards the Natives of India.'

"Mr. Rich also objected to this restriction that examinations should be held in England alone, and he said that his object was that all offices in India should be effectively opened to Natives. And therefore he would not require them to come over to this country for examination, as such a condition would necessarily entail on Natives of India great expense, expose them to the risk of losing caste, and thereby operate as a bar against their obtaining the advantages held out to all other of Her Majesty's subjects. The course of education through which the youth of India at present went at the established colleges in that country afforded the most satisfactory proof of their efficiency for discharging the duties of office.

"Again, Mr. Phillimore said in the same debate that he also feared that the Bill would prove delusive, and that, although it professed to do justice to the Natives, the 'spirit of monopoly would still blight the hopes and break the spirits of the Indian people.'

"This, Sir, was in 1853. In 1858, when the Government of this country was taken over by Her Majesty, the Statute which was enacted maintained the Indian Civil Service Examination on the footing on which it had been established; but the disadvantage and the unfairness of excluding Indians by confining the examination to London was strongly felt. With a view to devise a remedy for the evil the Secretary of State appointed a Committee in 1860, as Mr. Subba Rao has mentioned; and that Committee recommended in favour of simultaneous examinations being held in this country as well as in England. From that time various attempts have been made to get this done. Mr. Fawcett, for instance, brought a motion in 1868 in the House of Commons in favour of simultaneous examinations being held in Madras, Bombay and Calcutta; and it was, I believe, largely due to that resolution that the Statute of 1870 was enacted. The tardy action taken under that Statute did not give satisfaction, and complaints continued. To meet these complaints the Public Service Commission was appointed in 1886. But instead of improving the state of affairs that Commission has, as many speakers have pointed out, put Indians in a worse position.

"The question which we now have to consider is, will the Government make an attempt to remedy the injustice which has been done by the recommendations of the Public Service Commission being partly accepted? There were two alternatives before the Government of India: one was the holding of simultaneous examinations in this country as well as in England; the other was the creation of Provincial and Imperial Services. We know that the proposal for holding simultaneous examinations was not accepted, but a Provincial Service was created. We have heard what a deal of dissatisfaction has been caused by the creation of the Provincial Service, and that those who belong to that service or are given the option of joining that service feel that it is an inferior service. That this is really so has been attested to by the Government of Madras. The Government of Madras, of all the Local Governments that were consulted on the questions referred to by the Public Service Commission, expressed its opinion clearly in favour of simultaneous examination, and against the creation of a Provincial Service. I beg leave to quote from the despatch in which it said:

'Another reason for altering the status and position of Natives in the Civil Service is to be found in the fact that the new Provincial Service does not in any way satisfy their aspirations and wishes. It is evident that its introduction on the present lines has been a great disappointment to them; that it has relegated them to a distinct and limited service, and instead of placing them in line with the rest of the Civil Service, has confined

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them to what they consider an inferior and subordinate position, and that this has been accentuated by the designation which has been applied to them, a designation which they have always associated with a distinctly and well-recognised inferior branch of the Service.'

"The despatch went on to say :

'His Excellency in Council considers, therefore, that it is expedient to remove, by the institution of simultaneous examinations, the disabilities which now tend to hinder the entry of Natives into the Civil Service proper. This step will remove an injustice, or what has almost the same consequences, a feeling of injustice, and it will not endanger the British supremacy or impair the character of the administration as a civilised and enlightened Government. It may possibly, in certain circumstances, weaken executive action; but the disadvantages in this respect are not so certain or so grave as to outweigh the advantages. The increase in the proportion of Native candidates selected is moreover not likely to be so great as is supposed, and it would be advantageous to remove the dissatisfaction and discontent which undoubtedly exists among the natives by some such measure as is now under discussion.'

"It is much to be regretted, Sir, that this wise recommendation was not accepted. Subsequently a resolution was passed by the House of Commons in 1893, but, as we know, unfortunately no action was taken upon that resolution also. The action taken by the Government on the Report of the Public Service Commission has deepened the complaints of Indians. Distinguished statesmen have again and again acknowledged the justice of the claims of Indians to a larger measure of the higher appointments. They have also acknowledged the injustice of the existing arrangements, and yet the injustice remains largely unremedied. It is pleasing to acknowledge that in recent years Government have shown a growing disposition to recognize the justice of these complaints and have been trying to remove them. The recent appointments to some high offices made during the time of Lord Morley and Lord Minto are striking evidence of the desire of Government to remove the injustice or at least to minimise it as much as possible. But, as Mr. Gokhale has pointed out, these appointments do not affect the situation in relation to the bulk of the appointments, and the question remains, what should be done to really improve it? I submit the solution obviously lies in holding examinations for all first appointments, which are held at present in London alone, in India as well. That, Sir, I submit, is the solution. Government may be pleased to adopt it now or it may defer it; but I venture to say that the holding of simultaneous examinations is the only course which will solve the problem with which we are confronted. But until that is done, a great deal can be done, and I hope it will be done, to admit Indians to higher appointments in the different departments of State in which they are employed in very small numbers or from which they are practically shut out.

"I would remind the Government in this connection of the gracious proclamation which His late Majesty King Edward issued in 1908. In that proclamation His Majesty was pleased to say :—

'Steps are being continuously taken towards obliterating distinctions of race as the test for access to posts of public authority and power. In this path I confidently expect and intend the progress henceforward to be steadfast and sure.'

"That, Sir, is the most solemn pronouncement of our late Sovereign on the question raised in the resolution before us. By bringing forward this resolution Mr. Subba Rao has merely reminded the Government of the desirability of taking some steps, of adopting some effective means, by which the desire of His late Majesty would be better given effect to. We also remember the noble message of His Majesty, our present King-Emperor, in which he graciously spoke of the Proclamations of 1858 and of 1902 as the charters of the rights of Indians under the British Government, which charters His Majesty promised to abide by during all his time. We are looking forward with great satisfaction this year to the visit of His Majesty to our country; and nothing would be more pleasing to the people of this country, nothing would raise the Government higher in the estimation of the people, than an earnest indication of the desire to treat, in the matter of appointments to the public service, Indians and Europeans as equal fellow-subjects, as they really are in law. They are no



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doubt in theory regarded as such. But it is undeniable that in the apportionment of public appointments a distinction which is entirely illegal and unjust, and which cannot be justified on any possible ground, is maintained. This naturally gives rise to a great deal of dissatisfaction and fosters discontent. If the motion of Mr. Subba Rao to appoint a Commission or Committee is accepted, it will help to remove all reasonable complaints. I am not particular about a Commission. I will be content with a Committee, and even with a Committee which may consist merely of officials. I would be content if a few select officials were appointed to go into the question and to see what bars, if any, have been created in the different departments against the pledges given to the people of India in the Act of 1833 and in the Proclamations of 1838 and 1908, and to recommend how they may be removed. If this is done, Sir, a great deal of justifiable discontent will be removed, and there will be a feeling of gratitude growing up in its place in the minds of the people which cannot be created by the creation of a few high appointments alone. I hope the resolution will commend itself to the Government."

The Hon'ble SIR GUY FLEETWOOD WILSON: "I had an opportunity last week of answering in regard to my own Department, and therefore I do not think I am called upon to make any remarks to-day in connection with the Hon'ble Mr. Subba Rao's resolution."

The Hon'ble MR. CLARK: "I do not think I need endeavour to discuss exhaustively the question of the appointment of Indians in all the divisions and sub-divisions of the hydra-headed department over which I have the honour to preside, and in point of fact only two departments were mentioned to-day. One was the Customs and the other was the Railways. I was a little surprised that the Customs was mentioned, because, as Mr. Subba Rao himself very truly said, of the last three appointments of Assistant Collector that were made, two were filled by Indians. One of these gentlemen, I believe, who has risen to this appointment, is a relatively junior man who has gained his promotion by his merits and ability, and there is no reason why he should not eventually get to the top of the tree. I do not think therefore that there is much ground for cavil so far as the Customs are concerned.

"I now come to the question of the Railways. When this question was raised before at the discussion early last week on the budget, the Hon'ble Mr. Gokhale was not entirely satisfied with the answer which was given to him by my Hon'ble friend the President of the Railway Board. I cannot help thinking there was some misapprehension as to what fell from my Hon'ble friend. I listened myself very carefully to what he said, and I am quite sure he had no intention whatever of conveying the idea that the door is barred to Indians to the higher appointments in the Railways. If I may say so, I think that the standard which has been applied is not a very sound one. The Hon'ble Mr. Mudholkar dealt with the question and gave us figures to show how small a number of Indians had reached the higher appointments. That undoubtedly is true; but it seems to me that if the door were really barred and it were determined not to allow openings for Indians, it would have been impossible for them to have reached the point they have; it would have been impossible, for instance, for the gentleman whose appointment is published to-day in the papers, Mr. Rallia Ram, to have become the Deputy Engineer-in-Chief of a State Railway. And it is on a State Railway that this appointment has been made. As regards the Railways leased to companies, the Government can only endeavour to influence the companies in the desired direction: they cannot compel them to employ Indians; and as regards the companies which own their lines they have no powers at all. It is important to note, as the Hon'ble Mr. Subba Rao himself pointed out, that it is in those companies—the companies over which the State has no control—that matters in this particular are worst.

"A point which the Hon'ble Sir T. R. Wynne emphasised—and rightly, I think, emphasised—was that a special characteristic of this question in connection with the railways is that he and the Railway Board are responsible for the safety of the railways. Efficiency is greatly to be desired in all

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branches of Government service, but it must be remembered that in the railways any measure of inefficiency means also the risk of endangering safety. It is therefore not so easy to try experiments of any kind there as it may be in other services. I notice the Hon'ble Mr Gokhale said that if Indians were not fit for these higher posts, it was not their fault that they had not the necessary training and experience. I do not think that was quite a fair way of putting it. As the Hon'ble Mr. Madge pointed out, what we have to consider is the conditions as they are actually now, and if a man does not seem to be thoroughly qualified for a high and responsible post, especially in so serious a matter as railway administration, I do not think anybody could advocate that he should be put into it. Undoubtedly more opportunities are being given now, and I hope the effect of these opportunities will be that more Indians will receive the necessary training and will become efficient and will reach the higher posts."

The Hon'ble MR. SYED ALI IMAM : " Sir, my task in addressing you in connection with the debate that is before you is a simple one, for the simple reason that I do not represent any Department that has got largesses to dole out or offices to give away. Therefore I find that all I can say to the appeal that has been made by some of the non-official Members to Government to-day is that so far as I am concerned as a Member of the Government, I will give that appeal to the best of my ability the sympathetic consideration which it deserves."

The Hon'ble MR. BUTLER : " The Hon'ble Mr. Subba Rao, in the lucid and forcible speech with which he introduced his motion, dwelt somewhat lightly on the position of the Provincial Educational Service, and this matter has received even more attention from the Hon'ble Mr. Gokhale and others. Well I am not in a position to make any statement now about the Provincial Educational Service, because the improvement of the prospects of that service is at the present moment under the consideration of the Government of India. I should like, however, to correct one small error, under which the Hon'ble Mr. Subba Rao quite inadvertently has fallen. He said that no Principalship of a Government college could be held by an Indian. At the present moment a first class Government college at Rajshahi has an Indian professor as Principal, and I should like to add, with reference to another remark he made, that the Assistant Secretary in the new Education Department, Kunwar Maharaj Sing, is an Indian. He has not taken up his appointment yet, because he could not be spared by the Local Government, and he will join in Simla; but he is the first Assistant Secretary appointed to the Department. At the close of his speech the Hon'ble Mr. Gokhale made some remarks about competitive examinations. I must not deal with those remarks at any length because they do not fall within my department; but I happen to have read in the newspapers of last week or the week before that there is a very strong demand in England now, which is headed by so able an educationist as Professor Sadler, for the appointment of a Royal Commission to enquire into the question of the suitability of competitive examinations for selecting men for posts under Government. There is a strong reaction in England at the present moment against the system of recruitment for the public service by competitive examination. I do not think I need detain the Council any more; I cannot make any statement on the only subject of real interest to them."

The Hon'ble MR. CARLYLE : " So far as regards the departments entrusted to my charge, complaints have been made of the state of things in the Survey and in the Public Works Departments.

" So far as the Survey Department is concerned, as I have said on a previous occasion, it must for obvious reasons continue to be administered mainly by military officers. The question of the Provincial Service and the possibility of giving them higher appointments is now under consideration. I may add that in Colonel Burrard the Department has a head who may be trusted to deal sympathetically and justly with every class and race in the Survey Department.

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"In the Public Works Department the whole question of the relations between the Imperial and Provincial Services is being dealt with, and I trust it may be possible to arrive at some solution which will generally be recognized as just and satisfactory.

"So far as the ten per cent. limit on the appointment of Indians to the Imperial Service is concerned, it is not easy at present to get that proportion of fully qualified Indians at home."

The Hon'ble Mr. EARLE: "I must in the first place congratulate the Hon'ble Member on the wide and general terms in which he has framed his resolution. I was afraid from the enquiries which he had at one time made from the Home Department—and they were exceedingly numerous—that he intended to move that the Government of India should make a definite pronouncement as to the line of action which they would take in regard to particular services. In that case it would have been rather difficult to have given a satisfactory reply. Inasmuch, however, as he has couched his resolution in very wide and general terms, it is possible to indicate the general direction of the way in which the Government of India are prepared to move.

"I had intended to say a good deal about what we propose to be done in regard to the medical service, and particularly with regard to the development of an independent medical profession. I shall not do so, however, having regard to the lateness of the hour and to the fact that my friend the Hon'ble Surgeon General Lukis has already touched upon one of the points on which I had intended to speak. I may just mention, however, to the Council that the Government of India are taking a great interest in the development of an independent medical profession and that various questions in that connection have lately been referred to the Local Governments for consideration. The whole matter will be considered during the current year and we shall perhaps be able to say something on the subject next year.

"As regards the question of the police service, which has been specially mentioned by the Hon'ble Member, I would note that the following system of recruitment obtained between 1893—1905. A portion of the superior police force was recruited by a competitive examination in England, for which Europeans only were eligible; while the rest were selected in this country under a combined system of nomination and examination, to which Indians were also eligible. Then came the Police Commission's Report of 1905, and their recommendation was that direct recruitment to the superior police should be restricted to Europeans, the examination being held in England. This proposal was accepted. Now, although Indians are not eligible for direct recruitment to the superior police force, deputy superintendents, who are recruited almost entirely from among Indians, and who form a service similar to the provincial civil service, can be promoted to the superior service up to, for the present, a limit of 5 per cent. of the number of superintendents in a province. This works out at present to a total of 15 posts out of a total of 306.

"The main question to be considered appears to be whether Indians should be admitted to the open competitive examination in England as they are in the Indian Civil Service and Indian Medical Service, in addition to making a certain number of posts available for promoted deputy superintendents. The question was carefully considered by the Police Commission in paragraph 69 of their Report, and an adverse opinion was arrived at on the ground that recruitment in this country was the best system in the case of Indians required for the police force. In view of the very recent re-organization of the police service, it is perhaps too early to re-consider the matter at present. We should watch the effect of the new scheme for some time and see how the proposal to appoint deputy superintendents as superintendents turns out. The Government of India will be glad to see the 5 per cent. of places which are now available for Indians occupied by deputy superintendents as soon as circumstances allow.

"I will now turn to the case of the Indian Civil Service and the Provincial Service with which it is connected. The Indian Civil Service Act, 1881,

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practically lays down that most of the important appointments in the administration should be held by covenanted civil servants of the Crown, but, in special cases, persons other than covenanted civil servants could be appointed to the posts referred to. Inasmuch, however, as the permissive sections of this Act were not found in practice to be sufficiently favourable to Indians, the Government of India Act, 1870, was passed for the special purpose of facilitating the appointment of such persons to posts previously held by covenanted civil servants. This Act is, to use authoritative language, 'the parliamentary remedy for any inconvenience or injustice which Indians might be shown by experience to suffer through the necessary adaptation of the examination in London to the convenience of home-born rather than of Indian competitors for the civil service.'

"The first tangible fruit of the Statute of 1870 was the statutory rules of that year, which provided that a proportion of the recruitment for posts in the covenanted civil service up to a *maximum* of one-sixth in each year (exclusive of military recruits for non-regulation provinces) should be reserved for Indians appointed in this country. Altogether, between the years 1870 and 1889-1890, 69 statutory civilians were appointed. This system was abolished in the year last-named on the recommendation of the Public Service Commission, the plan of nomination having failed 'in securing sufficient guarantee of ability and education in persons appointed under the rules. Although it was considered that in most cases the nominations actually made had been fairly satisfactory, it was generally felt that no antecedent guarantee existed of the fitness of the persons selected.'

"As a result of the Public Service Commission's report, a provincial civil service was constituted from the higher ranks of the previously existing subordinate executive and judicial services, and a proposal was made that one-sixth of the covenanted charges (excluding the proportion reserved for military officers) should be removed from the cadre of the covenanted civil service, and that these should be thenceforward open as a permanent arrangement to members of the provincial civil service. The covenanted civil service was thus to be reduced to a *corps d'élite*, by limiting its numbers to what was necessary to fill the chief administrative appointments of the Government, and such a number of the smaller appointments as would ensure a complete course of training for junior civilians.

"The Commission specifically recommended that 108 posts usually held by civilians should be made available for provincial service officers. After, however, consulting Local Governments, the Government of India decided in 1892 that the number should be 98, this figure being considered as suitable to meet proximate reasonable requirements and to be worked up to after satisfying the claims of officers already in the service. It was understood that there was to be no finality about the list. The list was to be subject to alteration and expansion from time to time according to varying circumstances. The system of listing posts was to be final, but it was contemplated that in course of time the proportion of one-sixth might possibly be exceeded.

"In this connection I would refer to the remarks made by my Hon'ble friend Mr. Subba Rao in which he said that only district judgeships and collectorships are at present included in the list of listed posts. That is perfectly true, but at the same time there is absolutely nothing to prevent any post being given to an Indian. Thus, lately we have appointed an Indian as Commissioner at Lahore, and, if I am not mistaken, the brother of the Hon'ble Mr. Chitnavis is a Commissioner in the Central Provinces. There is nothing to prevent the Government of India from appointing a Secretary to the Government of India from among the ranks of Indian officials if they think fit. I think that the Hon'ble Member was mistaken in what he said in this respect.

"I will now show what has in fact been done to carry out the scheme. As above indicated, the scheme contemplated 98 posts being made available to provincial service officers as soon as the claims of officers already in the covenanted service allowed this to be done and duly qualified candidates were forthcoming. Since that time the number of listed posts has increased from

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93 to 102, while the number of posts actually held by statutory civilians or provincial service officers has increased from 56 to 92. Moreover, now that there are only 21 statutory civilians left, the large majority of these 92 posts, *viz.*, 71, are held by provincial service officers.

"I will now explain that there is still a wide margin of posts available for provincial service officers. At the present time (1911) the number of posts held by members of the Civil Service, excluding posts held in Burma by military officers, is 993. One-sixth of this number is 165—very nearly what Mr. Gokhale mentioned. I think he mentioned the figure 163. There is, therefore, a wide margin, 165 *minus* 102, or 63 posts, still left for Provincial Service officers.

"The question naturally arises at this stage how it is that the listing of posts has not been taken up more vigorously in the past. That is a perfectly legitimate criticism and question to put. In the first place, it must be remembered that the scheme was always considered to be an experimental one, and that the intention was that the maximum of one-sixth should only be worked up to if the system proved successful, and, in order to enable a proper opinion to be formed on the subject, a considerable, probationary period was obviously required. In the next place, Burma and Assam were not considered ripe for the system of listing until recently (1905 and 1907, respectively). Again, large additions to the Indian Civil Service cadre have in recent years been found necessary. Thus, in Burma and the Punjab 54 new officers (22 in the former and 32 in the latter) have been recruited owing to the rapid development of those provinces. Next, the two provinces of Bengal and Eastern Bengal and Assam, taken together, account for an increase of 38 posts. Similarly, the creation of new districts in Madras accounts for 14 new posts, while the amalgamation of Berar with the Central Provinces and the decision to man the former in future from the Indian Civil Service accounts for 19 more posts. It must also be borne in mind that in 1893, after the decision to list 98 posts had been arrived at, the Government of India expressed their opinion that the European service was at its *minimum* strength and that no further reduction would be practicable for some years to come.

"On the other hand, no systematic enquiry has been made in order to ascertain whether more posts could be listed so as gradually to work up to the one-sixth proportion, as proposed by the Public Service Commission. It must be admitted, therefore, that there is a *prima facie* case for enquiry, and such enquiry will most certainly be made.

"The Hon'ble Member has advocated the holding of simultaneous examinations and the giving of all the higher appointments in India by competitive examination only. I fear that the Government of India can give him no encouragement in that respect. From the time of the famous despatch of the Duke of Argyll of 1869 to the present day, it has consistently been held that though a competitive system is generally suitable for the recruitment of Europeans in England and of those Indians who elect to proceed to England for the examination, it is not the best system for recruiting in this country Indians whom we require to assist us in the administration. There is no particular merit about open competition even as regards Europeans; but, given a good education in England, competition does secure in a general way good results. The case is totally different as regards the selection of Indians. The average education given at schools and colleges in this country is still some way behind that given at similar institutions in England. Moreover, it is not only the intellectual character of the education given that is of importance; it is the general character of the training which has to be looked to. Another grave objection would be the injurious effect which a simultaneous examination conducted in this country would be likely to have upon the development of education here. Even in England there has been considerable trouble in this respect, and in India it is certain that not only would private institutions be created for the main, if not the whole, purpose of offering special preparation, but the regular institutions would not be able to resist the temptation of so shaping their courses of study as to secure success at the examination rather than to impart a general liberal education to the mass of their scholars.

"Then there are the very grave difficulties connected with the personnel to be recruited. A fair proportion of Europeans is, as already indicated, essential. What is equally important is that the recruitment of Indians should be such as to secure that a fair proportion of the offices should be given to the various communities in India. These results could not be secured under any system of simultaneous examination. I think that for the present we must adhere to the present system. Then those Indians who are recruited in England will have been trained in the highest and best form of English education, and will, in the words of Lord Macaulay, 'enter the service in the best and most honourable way.' On the other hand, Indians recruited in India, as at present, by a system of careful and cautious selection and by promotion according to tried ability will, in the words of the Duke of Argyll, be recruited 'by a competitive examination of the best kind.'

"The Hon'ble Member has referred to the fact that the open competition in England has not produced results favourable to Indian competitors. It is true that the number of successes have not been large—5 per cent. of the total. Much better results might, however, have been secured if there had not been a large falling off in the number of Indian competitors in recent years. Why this has been the case, the Hon'ble Member probably can tell better than I can. In any case a low percentage of success is not a sufficient reason for subverting a good working system, though it might be a good reason for taking up the investigation which I have already suggested as to whether we cannot now work up to the full proportion of one-sixth of listed posts, as recommended by the Public Service Commission. In this connection I might note, for the information of the Hon'ble Member, that whereas in 1886, when the Commission was appointed, there were only 12 Indians in the Civil Service, there are now 64.

"As a matter of general interest, the Hon'ble Mover of the resolution may be glad to know that considerable progress is being made in respect of the appointment of Indians to posts carrying a salary of £1,000 and over. It was pointed out in the budget debate of 1904-05 that in 1867, out of a total of 648 such appointments, 12 were filled by Indians, all Hindus, or a percentage of 2; whereas in 1903, out of 1,870 such appointments, 71 were filled by Hindus and 21 by Muhammadans, the percentage of posts held by Indians being therefore 7. The present position is that in 1910, out of 1,882 such appointments, 184 were held by Hindus and 27 by Muhammadans, the percentage of posts held by Indians being therefore 8.6.

"I cannot help thinking, both from what the Hon'ble Mover has said to-day and from remarks which he has let fall to me from time to time, that what he is chiefly concerned about is the status of the provincial civil service. He would like to see the status of that service, or at any rate of those members of the service who attain to listed posts, improved. He has given no clear indication as to what he wishes; but, in referring the question of listing posts to Local Governments, the matter will be borne in mind.

"In conclusion, I may say that the Government of India will readily refer to Local Governments in order to see how far it is now practicable to work up the recommendation of the Public Service Commission. They do not, however, think that for this purpose the appointment of a Commission is called for. It must be remembered that the Public Service Commission was appointed only when, after two years of discussion, it was found impossible to arrive at a satisfactory solution of the questions involved. No such necessity now exists, as the question to be decided is a simple one, namely, to ascertain from Local Governments how many more posts can be listed up to the maximum of one-sixth. The appointment of a Commission would merely mean waste of time and labour. If the Government of India is left to take action of their own accord, much progress might be made within the course of this very year. On the other hand, if a Commission were appointed, we could not expect to see the result of its labours for at least a year or eighteen months, and then there would be a further great delay in consulting Local Governments. The Government of India are fully alive to the importance of associating Indians in the adminis-

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tion of the country, and, as I have explained, the subject is one which has constantly engaged their attention."

The Hon'ble Mr. SUBBA RAO: "Sir, I have listened with much interest to the sympathetic speeches that have fallen from the Hon'ble Members opposite, who are in charge of the different departments of Government. I am glad to hear that their earnest desire is to associate Indians more largely in the government of the country. But I have to express my regret that the way in which it is proposed that Indians should be associated more largely with the government of the country is to be on the old lines. We know that under the Statute of 1870 lists were drawn up on the recommendations of the Public Service Commission, based on the rule that one-sixth of the appointments reserved for the Indian Civil Service should be given to the members of the Provincial Service. Hitherto the number of appointments which listed was only 102, and, if that proportion has to be worked up to, it will come to something like 165. It is stated now by the Hon'ble Mr. Earle that it will be the endeavour of the Government to work up to that proportion.

"All this means that there is to be the Provincial Service and members from that service will be selected according to their ability to fill the posts which will be listed to make up the proportion. In fact, if the old plan is continued, I do not see a way out of the difficulty which has been created by the recommendations of the Public Service Commission and the orders thereon. Though we are glad to learn that an enquiry would be made to list more posts for the members of the Provincial Service, I regret to say that so long as the present system continues, there cannot be any real contentment in the country, because a line of demarcation is drawn between the two services and the stigma of inferiority is attached to the members of the Provincial Service. The Hon'ble Mr. Earle pointed out that there was no finality with regard to the lists already drawn up. I quite admit that the lists might be modified or enlarged from time to time, but what I have been pressing upon the attention of the Council is that so long as the present orders are there, you have to go up to the Secretary of State to modify them if you want to list certain places. The matter was arranged rather in a peculiar way. Certain principles were laid down for listing the places; then the Government of India, apparently with the sanction of the Secretary of State, in April 1892 fixed the places that should be listed; and then in November published the rules under the Statute of 1870 and authorised Local Governments to notify in the official Gazette the listed places to which they might appoint members of the Provincial Service. I quoted a passage from the Government of India Despatch of August 1892 to show that this scheme was intended to be a final settlement of the claims of the Indians for higher employment. I shall, however, accept the statement of the Hon'ble Mr. Earle that the lists as framed are not final and may be modified by the Government of India or by the Local Government. In this connection I shall draw the attention of the Council to the resolution brought in the Madras Legislative Council by the Hon'ble Mr. Raghunatha Rao that the Madras Government might be pleased to appoint an Indian to the Board of Revenue. The answer given by the Hon'ble Mr. Hammick on behalf of the Government of Madras was to this effect: 'we are powerless; we cannot do anything; it is the Secretary of State, under the Statute, that can make the appointment.' So the resolution was withdrawn since the Madras Government confessed its inability to make the appointment under the present rules. Therefore, as far as I can see, the rules and orders issued on the subject seem to direct 'thus far you shall go and no further.' And this has been going on from the year 1892 without any change.

"Now, the Hon'ble Mr. Earle, to show that the lists are not final, said: 'We have recently given the appointment of a Commissioner in the Punjab to an Indian; we have also given another appointment like that in the Central Provinces.' I may point out that those appointments were not made under the Statute of 1870. The Statute of 1870 applies only to the regulation provinces and the Government of India were authorised to frame rules under the Statute with regard to the regulation provinces only. But so far as non-regulation provinces were concerned, the Government of India were

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at perfect liberty to appoint anybody they pleased to any post they liked, under executive orders. Consequently the rules as framed have no application whatever to the non-regulation provinces, and the appointments made in the Punjab and in the Central Provinces had nothing to do with the rules framed under the Statute of 1870. I was, therefore, perfectly correct in stating that the Government of India, so far as the regulation provinces were concerned, had to go by the rules framed under the Statute, and for the time being the rules and orders issued on the subject are binding upon the Government of India and the Local Governments.

"Sir, it is unnecessary in connection with this resolution to discuss the question of the propriety of holding simultaneous examinations in England and India and the conditions under which they should be held here. It is a very large question, and a bulky volume was sent up by the Government of India on this subject to the Secretary of State in 1893. I hope shortly it would form the subject of a resolution when the Hon'ble Member opposite may defend the position which he has taken up at this meeting. The suggestion which I have made is that if simultaneous examinations in both countries are not feasible, examinations of equally high standards, limited to nominated candidates from the whole of India, might be held here. This is a suggestion which I have made for the consideration of the proposed Commission.

"Now, the Hon'ble Mr. Earle has said that no particular suggestion has been made with regard to the removing of the stigma of inferiority attaching to the Provincial Service. I am glad to learn that the Government of India propose to make an enquiry into the matter and that this is one of the special points that will be considered. We shall of course wait for the result of the enquiry proposed to be made by the Government of India, and I shall not at this meeting press this resolution. Let them make the enquiry by all means. Let them refer this question to the Local Governments as to how the present discontent which is caused by the differentiation of the two Services can be removed. I have made my suggestion that the only way to remove the stigma and do justice is by having examinations in both countries. We have waited for a good long time and we shall wait till the Government makes full enquiry into this matter. I am sure the conclusion which they would come to, if really they want to remove the stigma, would be to have some kind of competitive examination in this country as well as in England.

"I do not propose to refer to the speeches made by the other Hon'ble Members opposite. It is enough for the present that the Government has promised to make an enquiry on the subject. I have a good deal to say as regards the Police, the Survey and other Departments. I hope we shall bring up a resolution with regard to each Department, when each Department can be considered on its merits. It is not fair that we should now discuss the details of each Department in connection with this resolution. I reserve that question for the present. We must first settle the main principles. In conclusion, I beg permission, Sir, to allow me to withdraw this resolution with liberty to bring it forward next year, when I hope we shall be in a better position to deal with this resolution. The Hon'ble Mr. Earle says that if a Commission is appointed, it will take a lot of time, whereas the Government of India will finish the business in no time. That is certainly true, if time is the only consideration. We shall gladly wait for some more months and I hope the result of the enquiry will be satisfactory."

The resolution was withdrawn.

The Council adjourned to Monday, the 20th March 1911.

J. M. MACPHERSON,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA ; }  
The 30th March 1911. }