

## MINUTE OF DISSENT.

On three points of importance I regret that I find myself in disagreement with this despatch.

### *Congress-League proposals.*

2. My colleagues have decided to accept as a basis of the Muhammadan representation, both in the provincial and Indian legislatures, the ratios agreed on by the Hindu and Muhammadan representatives in December 1916 in what is known as the Congress-League compact; except that they propose one substantial modification of the figures so as to give the Muslims 10 more seats either by election or nomination in the Bengal legislature.

3. I agree with the view taken in para. 21 of the despatch that the results of the Lucknow compact are defective. I consider that it gives the Muhammadans of two provinces too little, and the Muhammadans of at least two provinces too much. In each case the result is of primary importance to the province itself; and on the Government of India lies the responsibility of deciding whether to endorse such local inequalities because certain political leaders assented to them. I trust I do not misrepresent my colleagues when I say that they do not regard the Muslim League at all events as entitled to speak for all Muhammadan interests, and that this consideration largely influenced them in proposing to vary the Bengal representation. We know that several Muhammadan deputations which addressed His Excellency and the Secretary of State in 1917 dissociated themselves from the League proposals. The same consideration makes it harder to accept the settlement on an all-India and not on a provincial basis. If we disturb it, as my colleagues have found themselves driven to do in two important respects (for they agree, I understand, in setting aside the proposal discussed in para. 164 of the Report), we do so honestly with no wish to reopen a controversy that a section of political opinion regards as closed; but simply because in this highly important matter we cannot delegate our responsibility to Parliament into other hands. It appears to me, therefore, that if we think we can see our way to a fairer settlement we ought not to be deterred from saying so for no better reason than because we fear that we may possibly be unjustly suspected of sinister intentions. Like my colleagues I have no wish whatever to belittle the fact of agreement; but my view is that the Government of India if they think the terms of it defective ought not to feel bound by them. The compact meets with much more acceptance than criticism at the present time; but hereafter when the value of votes and representation comes to be realised, it must be expected that the interests which are hard hit by it will complain with some justice that the Government of India should have endorsed it. In my view therefore we should proceed without regard to the details of the Lucknow settlement, to fulfil our own pledges to the Muhammadans in what we ourselves think is the fairest way.

4. In the first place, while I agree with the reasons given in para. 24 of the despatch I should like to state my views upon the

point more definitely. Lord Minto gave on behalf of the Government of India a binding pledge to the Muhammadans which Lord Morley endorsed and Lord Hardinge repeated that their position should be estimated not merely on their numerical strength but with respect to their political importance. The Muslims of Eastern Bengal stand in need of protection perhaps more than any other part of their community. They are, as the despatch says, impoverished and backward, and unless we specially help them will have little chance in competition with other communities. This was shown in the days before partition when their interests did not secure sufficient hearing. The desire to help the Eastern Bengal Muhammadans was one of the reasons for the partition of Bengal. That their position improved while the province of Eastern Bengal and Assam lasted is a well-known fact. The repartition of 1912 came as a heavy blow to many of them. I doubt whether in the Lucknow agreement of December 1916 their interests were adequately represented. I have been much impressed by the arguments which have since been addressed to the Government of India by Saiyid Nawab Ali Chaudhuri, a member of the Indian Legislative Council, on behalf of the Muhammadans of Bengal; and I consider that they should get representation in the Bengal Legislative Council in proportion to their population strength.

5. I accept the principles laid down in para. 22 of the despatch. They lead me to conclude that what is wanted is a sliding scale in which the weighting given to Muhammadans increases as their numerical weakness does. We have, as the despatch says, to measure the advantage to be given to them. To do so some arbitrary assumptions must obviously be made. The fewer and simpler these are, the better. Where the Muhammadans are in a census majority let them get representation in that proportion. Where they are at their weakest, let us double that proportion; I can see no practical reason for going further than that. Between these extremes let us multiply the census ratio of the Muhammadans by a factor greater than one and less than two. I recognize that a purely mathematical treatment will not suffice; the strength of Muhammadan interests in the United Provinces, Bombay and Bihar and Orissa calls for some further moderate adjustment; and my final proposals would accordingly be:—

	Population percentage.	Proposed percentage of seats.
Punjab . . . . .	54·8	55
Bengal . . . . .	52·6	53
Bombay . . . . .	20·4	28
United Provinces . . . . .	14·0	24
Bihar and Orissa . . . . .	10·5	20
Madras . . . . .	6·5	12
Central Provinces . . . . .	4·3	9

6. It has been said that no proposals which depend on any assumed factors can command universal assent, and it has also been implied that once arbitrary factors are introduced one set is probably as good as another. I agree that universal assent cannot be looked for, but I think that, since we are compelled to make assump-

tions, we should make them on a reasoned basis rather than follow the compact. I think that my proposed scale does no injustice anywhere and is defensible on reasoned grounds, and that it ought to commend itself to reasonable people. I propose therefore that it should be put out for opinion.

7. As regards the representation in the Indian legislature I would observe that on a proportion basis the Muhammadans are entitled to 23 per cent. of the elected Indian seats. Some special constituencies (commerce, and as I think landholders also) cannot be suitably sub-divided on a communal basis, and in these it must be expected that non-Muslims will predominate. On the whole I should be prepared to give the Muhammadans 30 per cent. of the general and communal seats in the Assembly. In the Council of State there is no room for these nice adjustments, and I would secure the Muhammadans, by nomination if their representation by election is deficient.

#### *Indian legislature.*

8. The other two points upon which I am unable to share my Hon'ble Colleagues' views both concern the Indian legislature. I am not prepared to accept the committee's opinion that indirect elections are inevitable for the new Assembly; and while my colleagues' proposal to institute direct elections for the Council of State is a step in the direction of my own views, it is only a partial step; and the difference between us as to the functions and structure of that body is still wide and grave enough to leave me no choice but to explain my own position.

9. Para. 33 of the despatch is a concise presentation of the views I hold, but I desire to state them more fully. After considerable experience of the present legislature I am convinced that it would be unsafe for the Government of India to rely solely on the certificate power to pass their legislation when it is likely to provoke opposition. A scheme which purports to give the Indian legislature control over legislation, coupled with a reserve power of placing legislation in disputed cases under the control of the Government, must to my mind have this result that the use of the certificate power will be regarded as autocratic and will evoke reprisals. I am anxious not to press the argument too far, because I have agreed to the adoption of somewhat similar arrangements in the provinces. But (as the Report points out in para. 277) the two cases can be clearly differentiated, and what may be true of one need not necessarily be true of the other. In the first place, legislation in the provincial councils is not of the same moment as legislation in the Government of India. It is in the central legislature that the ultimate issues arise; and moreover if the certificate procedure should fail to give us essential legislation in the provinces we have retained for the central legislature an overriding power of legislation for the defence of all-India interests. In the Indian legislature we have no such reserve power. There is another point of difference. The grand committee in the provincial council will have a non-official majority; and there will be more justification in the popular view for committing a Bill to such a body than for committing it to the Council

of State with its official majority. I do not deny that the grand committee plan involves risks: I say only that I am prepared to run greater risks in provincial matters than I am willing to face in the affairs of the supreme Government. I feel that the result of using the certificate power, except in the plainest emergency, may be that the Assembly irritated by recourse to it will, with its large elective majority, retaliate by adopting an obstructive attitude to all government business. In the face of such tactics I regard the certificate power as difficult to use save in very exceptional circumstances and as dangerous in its consequences. I would not abandon it entirely, but believing that it should be reserved for extreme cases, I desire to see the Indian legislature so constituted as to give Government Bills a reasonable chance of being passed at a joint sitting of both houses, if a fair share of support can be secured from moderate Indian opinion. This plan would entail some reconstruction of both chambers. I need not go fully into details; but may state my opinion that the elective element in the Assembly should be decreased from 66 to 60 per cent.; that the representation of the landholders and of commerce should be transferred to their appropriate place in the upper chamber, the Assembly being thereby kept at a limit of 100; while the official element in both chambers would be somewhat increased. These changes would really give the Council of State the regular character of a revising chamber. My colleagues propose to give it more of this character than the Report does by letting it be chosen by direct elections on a general but very restricted franchise. If I may say so, I think that what they thus gain in the direction of giving the Council a senatorial character, is outweighed by the difficulty of justifying their departure from the proposals of the Report as regards the structure of a chamber whose functions they would still leave as proposed in that document. Their Council will indeed escape the worst features with which the committee proposed to endow it, but it will not retain the character required in a body which they intend to serve not seldom as the sole effective legislature. They still propose to leave some conservative elements represented in the Assembly; but the resulting situation is that while these elements in both chambers will have a direct mandate, the popular and progressive elements which figure only in the Assembly will depend on indirect election. Even as a temporary expedient I think that this is wrong.

10. I believe that the key to our difficulties regarding the central legislature plainly lies in getting direct elections generally to the Assembly. My colleagues clearly realise the objections to any other course, but most of them are disposed to accept the committee's finding that no alternative is for the present possible. I cannot subscribe to this. I think that indirect elections are open to the gravest objection; that the question of direct elections has not yet been fully investigated; and that inasmuch as my colleagues propose a further reference to local Governments about the elections to the Council of State, there is no good reason for not extending the scope of that reference to the Assembly elections too. The last point seems to me to need no argument. I will briefly give my reasons as regards the other two.

11. The proposal put forward by Lord Southborough's committee is that 70 per cent. of the elected members of the Assembly shall be elected by the non-official members of the provincial legislative councils voting on a communal system. A total electorate of 601 voters will return 55 members: on the average six votes will suffice to secure a member's return. A member may secure one of the general seats if he gets six votes and one of the Muhammadan or Sikh seats if he gets five. This is the system on which, for a period of ten years, my colleagues are prepared to base the greater part of the popular chamber of the new and reformed Indian legislature. I have re-read para. 83 of the Reforms Report which deals with the much milder anomalies which characterised the Minto-Morley provincial councils: and having done so I can only decline to continue what is in my judgment a worse arrangement.

12. Para. 34 of the committee's report does not convince me that the question of direct election has been examined thoroughly. If I am right in my surmise, there were doubtless good reasons for this result. Other questions were more pressing and local Governments were more interested in them. I quite agree with the committee that the provincial franchise will not do for the Assembly. I see no objection to taking a higher franchise than for provincial elections; but it need not be of an oligarchical nature. There is no need to go so high as the present Muhammadan franchises mentioned by the committee; the average constituency which I have in view would consist of four or five districts and 4,000 or 5,000 voters. The maintenance of rolls of this size would not add appreciably to the heavy labours which are to be in any case undertaken. That the constituencies would be large in size it is impossible to deny. It cannot be otherwise. British India is 246 times the size of the average district, and unless we propose to enlarge the Assembly far beyond the limits which practical considerations impose, any system of direct election whatever, now or ten years hence, must mean large constituencies. Nor do I underrate the drawbacks of these. All I lay stress on is that the maintenance of the roll and the holding of the elections has certainly not yet been proved to be an insuperable obstacle: and as for the objection that contact and communication will be difficult, I can only reply that exactly the same difficulty attends the proposals which the committee have put forward and which my colleagues have accepted for the Sikh seats in the Punjab council, the general seats in the Lahore division, and the Muhammadan seats in many provinces, not to speak of the Indian Christian constituencies in Madras, one of which comprises eleven districts. We are prepared to face these drawbacks for the provincial councils: why should we fear them for the Assembly?

13. The committee's objection in para. 34 of their report that a higher franchise would give the landholders undue predominance, while they would also get their own separate representation, begs the issue. Let us first see what sort of constituencies a moderately high franchise will yield, both in town and country, and then decide whether any landlord constituencies are needed or not. The principle laid down in para. 225 of the Report is sound. We should begin with the franchises and not with statistics of the Assembly.

14. My decided opinion therefore is that we should ask local

Governments at once to prepare a scheme of direct elections to both chambers: the constituencies for the Council of State to include the conservative elements such as the landholders and the vested commercial interests. There is plenty of time for this before the reforms take effect.

15. It follows that I dissent from paras. 23 and 24, 36, 39, 42 and 43 of the despatch.

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*Simla, April 23, 1919.*