AFTER consultation and in agreement with the Home Secretary, the Secretary of State for Scotland, the Chancellor of the Duchy of Lancaster and the Attorney-General I have come to the conclusion that an Inquiry by a Royal Commission into the selection and removal of Justices of the Peace and certain other aspects of the administration of Summary Jurisdiction is urgently required.

2. The Royal Commission on the selection of Justices of the Peace (1911, Cmd. 5250, copy attached) made recommendations that were carried out administratively by the setting up of local Committees to submit names and to advise the Lord Chancellor and the Chancellor of the Duchy of Lancaster. The aim should be to secure a proper selection of Justices representative of different classes of society and of different professions and occupations. There is a tendency for this to be interpreted as meaning that there should be a balance of party nominees, with members of the Advisory Committee considering themselves as delegates of their political parties, and it is not unknown for there to be agreements between two parties to exclude persons of a third party or those of no party. Activity in party politics must not be regarded either as a bar to appointment as a Justice of the Peace, or as a qualification or reward for political services. I am satisfied that the present system is not working satisfactorily, but I consider that it would be inexpedient to introduce changes except with the backing of the Report of a Commission of Inquiry.

3. It is also necessary to ensure that Justices of the Peace do not remain on the bench when from age, infirmity or unsuitability they are incapable of efficiently administering justice. I also regret to say that I have received information which makes me uneasy whether in certain areas bias and corruption do not exist. The public conscience has been stirred by certain cases which have recently been the subject of individual investigation and notably by that conducted by Lord Goddard at Stoke-on-Trent known as the "Longton case."

4. I do not think that it is necessary or desirable that a Royal Commission should investigate the whole field of Summary Jurisdiction. In particular, I should deprecate any suggestion that the Government think that there are prima facie grounds for considering the abandonment of the present system of lay justices and substituting for it some other system. It would be better, in my view, to make it clear that the purpose of the Inquiry is to consider how to make the existing system more efficient. Nor do I think that the Royal Commission should be asked to say whether there should be changes in the functions exercised by the Lord Chancellor, the Chancellor of the Duchy of Lancaster, the Home Secretary, and the Secretary of State for Scotland respectively, in relation to magistrates, since the organisation of the machinery of Government is a matter for the Cabinet.

5. A number of matters concerning Summary Jurisdiction have been examined and reported upon by the Departmental Committee on Justices' Clerks (1944, Cmd. 6507) under the Chairmanship of Lord Roche, and further inquiry into this field is not needed.

6. I think that the Inquiry should be restricted to those urgent and outstanding questions upon which a Royal Commission may be expected to produce a speedy and unanimous Report. The main purpose of the Inquiry should be to review once again in the light of modern conditions the problems, procedure and
practices examined in 1911 relating to the selection, appointment, &c. of Justices, and to see how far the solutions and remedies then proposed are satisfactory and effective and to what extent they need strengthening or modification in the changed circumstances of 1945. In addition, there are some allied questions that it would be helpful to refer specifically to the Royal Commission.

7. I attach to this Memorandum an Annex containing draft Terms of Reference for the proposed Royal Commission which have been agreed with the Home Secretary, the Secretary of State for Scotland and the Chancellor of the Duchy of Lancaster.

8. The composition of the suggested Royal Commission will need very careful consideration, as it is imperative that its members should command public confidence and respect. The Royal Commission of 1911 was composed of Lord James of Hereford and fifteen other persons whose names were honoured throughout the land and included eminent representatives of the political parties. On this occasion there is much to be said for a smaller body of (say) five to ten persons inclusive of the Chairman, who, I think, should (like Lord James of Hereford) have judicial qualifications of the highest distinction.

9. I recommend the Cabinet—
(a) To approve the proposal that a Royal Commission should be established as soon as practicable to consider how best the existing system of lay justices can be made more efficient;
(b) That the draft Terms of Reference attached hereto should be the Royal Commission's Terms of Reference;
(c) To authorise me to consult with the Home Secretary and other Ministers directly concerned as to the names of a Chairman and other members of the Royal Commission and to report thereon to the Cabinet in due course.

JOWITT, C.

House of Lords, S.W. 1,
25th September, 1945.

ANNEX.

DRAFT TERMS OF REFERENCE.

TO review the present arrangements for the selection and removal of Justices of the Peace, and to report what changes, if any, in that system are necessary or desirable to ensure that only the most suitable persons are appointed to the Commission of the Peace.

2. To consider and report on the qualifications and disqualifications for appointment to the office of Justice of the Peace, whether imposed by statutory provision or by administrative practice, and on the tenure of the office of Justice of the Peace and, in particular, whether appointments should be made for a term of years or subject to a retiring age, and what provision, if any, should be made for removing from the Commission of the Peace the names of Justices who prove unable or unwilling to discharge the functions of their office.

3. To consider and report whether any alteration is desirable in the law or practice as to ex officio Justices of the Peace.

4. To consider and report whether any alteration is desirable in the law or practice as to the selection and appointment of Justices of the Peace to form panels for Juvenile Courts.

5. To consider and report whether the expenses of Justices of the Peace incurred in the course of their duty should be paid out of public funds.

6. To consider and report on the law and practice relating to the appointment of Stipendiary Magistrates in England and Wales and in particular on the question of their salaries and of the provision of pensions, and whether there should be power to appoint Stipendiary Magistrates otherwise than on the application of the local authority.

7. To consider and report whether provision should be made for allocating work as between Justices of the Peace and Stipendiary Magistrates in England and Wales in areas for which a Stipendiary Magistrate is appointed.

8. To consider and report generally in relation to the foregoing matters.
ROYAL COMMISSION ON THE SELECTION OF JUSTICES OF THE PEACE.


Presented to Parliament by Command of His Majesty.
WHITEHALL, 10TH NOVEMBER 1909.

The KING has been pleased to issue a Commission under His Majesty's Royal Sign Manual, to the following effect:

EDWARD, R. & I.

EDWARD THE SEVENTH, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, to—

Our right trusty and well-beloved Counsellor Henry, Baron James of Hereford, Knight Grand Cross of Our Royal Victorian Order;

Our right trusty and right well-beloved Cousin and Counsellor Victor Albert George, Earl of Jersey, Knight Grand Cross of Our Most Honourable Order of the Bath, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and St. George;

Our right trusty and well-beloved Cousin Jocelyn Brudenell, Earl of Chichester;

Our trusty and well-beloved Edgar Algernon Robert Cecil, Esquire (commonly called Lord Robert Cecil), one of Our Counsel learned in the Law;

Our right trusty and well-beloved Gavin George, Baron Hamilton of Dalzell, Commander of Our Victorian Order;

Our right trusty and well-beloved Counsellors:—

Sir William Hart Dyke, Baronet;

Henry Hobhouse;

Sir Francis Mowatt, Knight Grand Cross of Our Most Honourable Order of the Bath, Companion of the Imperial Service Order; and

Our trusty and well-beloved:

Sir Arthur Osmond Williams, Baronet;

Sir Edward Troup, Knight Commander of Our Most Honourable Order of the Bath, one of the Under Secretaries of State to Our Principal Secretary of State for the Home Department;

Frederick William Verney, Esquire;

John Allsebrook Simon, Esquire, one of Our Counsel learned in the Law;

William Ryland Dent Adkins, Esquire, Barrister-at Law;

Thomas Gair Ashton, Esquire;

William Clive Bridgeman, Esquire; and

Arthur Henderson, Esquire.

Greeting!

Whereas we have deemed it expedient that a Commission should forthwith issue to consider and report whether any and what steps should be taken to facilitate the selection of the most suitable persons to be Justices of the Peace irrespective of creed and political opinion:

Now know ye that We, reposing great trust and confidence in your knowledge and ability, have authorised and appointed, and do by these Presents authorise and appoint you, the said Henry, Baron James of Hereford (Chairman); Victor Albert George, Earl of Jersey; Jocelyn Brudenell, Earl of Chichester; Edgar Algernon Robert Cecil (commonly called Lord Robert Cecil); Gavin George, Baron Hamilton of Dalzell; Sir William Hart Dyke; Henry Hobhouse; Sir Francis Mowatt; Sir Arthur Osmond Williams; Sir Edward Troup; Frederick William Verney; John Allsebrook Simon; William Ryland Dent Adkins; Thomas Gair Ashton; William Clive Bridgeman and Arthur Henderson to be our Commissioners for the purposes of the said inquiry;

And for the better effecting the purposes of this Our Commission, We do by these Presents give and grant unto you, or any three or more of you, full power to call before you such persons as you shall judge likely to afford you any information upon the subject of this Our Commission, and also to call for, have access to and examine all such books, documents, registers and records as may afford you the fullest information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever:
And We do by these Presents authorise and empower you, or any of you, to visit and personally inspect such places as you may deem it expedient so to inspect for the more effectual carrying out of the purposes aforesaid:

And We do by these Presents will and ordain that this Our Commission shall continue in full force and virtue, and that you, Our said Commissioners, or any three or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment:

And We do further ordain that you, or any three or more of you, have liberty to report your proceedings under this Our Commission from time to time if you shall judge it expedient to do so:

And Our further will and pleasure is that you do, with as little delay as possible, report to Us, under your hands and seals, or under the hands and seals of any three or more of you, your opinion upon the matter herein submitted for your consideration:

And for the purpose of aiding you in your inquiry, We hereby appoint Our trusty and well-beloved Aubrey Vere Symonds, Esquire, of the Local Government Board, to be Secretary to this Our Commission.

Given at Our Court at St. James's, the fifth day of November, one thousand nine hundred and nine, in the ninth year of Our Reign.

By His Majesty's Command,

H. J. GLADSTONE.
WHITExHALL, 30TH MAY 1910.

The KING has been pleased to issue a Warrant under His Majesty's Royal Sign Manual to the following effect:—

GEORGE, R.I.

GEORGE the FIFTH, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, to all to whom these Presents shall come,

Greeting,

Whereas it pleased His late Majesty from time to time to issue Royal Commissions of Inquiry for various purposes therein specified:

And whereas, in the case of certain of these Commissions, namely, those known as—

The Historical Manuscripts Commission,
The Horse Breeding Commission,
The Sewage Disposal Commission,
The Poor Laws Commission,
The Tuberculosis Commission,
The Canal Communication Commission,
The Mines Commission,
The Welsh Church Commission,
The Coast Erosion and Afforestation Commission,
The Vivisection Commission,
The Land Transfer Acts Commission,
The Ancient Monuments (Wales and Monmouthshire) Commission,
The Ancient Monuments (England) Commission,
The Trade Relations between Canada and the West Indies Commission,
The Selection of Justices of the Peace Commission,
The Divorce and Matrimonial Causes Commission,
The University Education in London Commission, and
The Brussels, Rome, and Turin Exhibitions Commission,

the Commissioners appointed by His late Majesty, or such of them as were then acting as Commissioners, were at the late Demise of the Crown still engaged upon the business entrusted to them:

And whereas We deem it expedient that the said Commissioners should continue their labours in connection with the said inquiries notwithstanding the late Demise of the Crown:

And know ye that We, reposing great trust and confidence in the zeal, discretion, and ability of the present members of each of the said Commissions, do by these Presents authorise them to continue their labours, and do hereby in every essential particular ratify and confirm the terms of the said several Commissions.

And We do further ordain that the said Commissioners do report to Us under their hands and seals, or under the hands and seals of such of their number as may be specified in the said Commissions respectively, their opinion upon the matters presented for their consideration; and that any proceedings which they or any of them may have taken under and in pursuance of the said Commissions since the late Demise of the Crown and before the issue of these Presents shall be deemed and adjudged to have been taken under and in virtue of this Our Commission.

Given at Our Court at Saint James's, the twenty-sixth day of May, one thousand nine hundred and ten, in the first year of Our Reign.

By His Majesty's Command.

R. B. HALDANE.
MAY IT PLEASE YOUR MAJESTY,

WE, the undersigned Commissioners appointed to consider and report whether any and what steps should be taken to facilitate the selection of the most suitable persons to be Justices of the Peace, irrespective of creed and political opinion, humbly beg to submit to Your Majesty our Report and the evidence upon which it is based.

Our first sitting took place on the 24th November 1909, since which date we have held 15 sittings for the purpose of taking evidence. At such sittings we examined 56 witnesses and considered various documents submitted to us.

THE OFFICE OF JUSTICE OF THE PEACE.

The office of Justice of the Peace dates from the 14th century. Indeed “Conservators” or “Keepers of the Peace” were recognised at an earlier period. “The common law,” says Blackstone, “hath ever had a special care and regard for the conservation of the peace; for peace is the very end and foundation of civil society. And, therefore, before the present constitution of Justices was invented, there were peculiar officers appointed by the common law for the maintenance of the public peace. Of these some had, and still have, this power annexed to other offices which they hold; others had it merely by itself, and were thence named Custodes or Conservatores Pacis. Those that were so virtue officii still continue, but the latter sort are superseded by the modern Justices.”

High Officers of State, such as the Lord Chancellor, the Master of the Rolls, the other Judges in their own courts, and Sheriffs within their own counties were among those entrusted with the duty of maintaining the peace as an incident to their offices.

Prior to the year 1327 those who were Keepers of the Peace otherwise than by virtue of their office “either claimed that power by prescription, or were bound to exercise it by the tenure of their lands; or, lastly, were chosen by the freeholders in full county court before the Sheriff.” But in that year popular election of Keepers of the Peace was superseded by the King’s Commission.

According to Blackstone “when Queen Isabel, the wife of Edward II., had contrived to depose her husband by a forced resignation of the crown and had set up his son, Edward III., in his place. To prevent therefore any risings, or other disturbance of the peace, the new King sent writs to all the Sheriffs in England withal commanding each Sheriff that the peace be kept throughout his bailiwick, on pain and peril of disinheritance and loss of life and limb. And in a few weeks after the date of these writs, it was ordained in Parliament, that, for the better maintaining and keeping of the peace in every county, good men and lawful, which were no maintainers to evil, or barretors in the country, should be assigned to keep the peace. And in this manner and upon this occasion, was the election of the Conservators of the Peace taken from the people and given to the King; this assignment being construed to be by the King’s Commission.”

The Statute of 1327 (1 Edward III., S. 2. c. 16), is thus regarded by Blackstone, following Lambard, as originating the modern system of appointment of Justices of the Peace.

In 1344, by the Statute 18 Edward III., c. 2 it was definitely enacted that the Keepers of the Peace were to be appointed by the King’s Commission; and in 1360 the Statute 34 Edward III., c. 1 gave the Keepers of the Peace the power of trying felonies, “and then they acquired the more honourable appellation of Justices.”
It would appear that, notwithstanding the assertion in the Act of 1344 of the royal prerogative of appointing Justices, some of the great nobles, claiming to exercise almost regal powers in their counties palatine, had appointed Justices in their own names. The preamble of the Statute 27 Henry VIII. c. 24 recites that—

"dyvers of the moost auncient prerogatives and auctorities of justices apparteynyng to (the impall) crowne of this realme have ben severed and taken "

from the same by sondrye giftes of the Kinges moost noble progenitours Kings "

of this realme, to the greate dysnunccion and detriment of the roiall estate of "

the same and to the hynderaunce and greate delaye of justice."

Accordingly it was expressly enacted by this statute "that no personne or "

personnes of what estate degree or condicion soever they be, frome the said first "

gays of Julye (1536), shall have any power or auctoritie to make any justices of "

eire justices of assise (justice) of peace or justices of gaole delyverey but that all "

suche officers and ministers shalbe made by letters patentes under the Kinges "

greate seale in the name and by auctoritie of the Kinges Highnes his heires, "

Kynes of this realme, in all shires counties counties palantyne any other places "

of this realme Wales and marches of the same, or in any other his domynyons "

at thir pleasour and willes, in suche maner and forme as justices of eire justices "

of assise justices of peace and justices of gaole delyverey be comonly made in "

ever shire of this realme."

In the case of the county palatine of Lancaster, however, it was provided by section 4 of the Act (27 Henry VIII. c. 24) that commissions to justices should be "under the Kinges usuall seall of Lancastre " instead of under the Great Seal.

The Statute 2 Henry V. c. 1 enacted that Justices of the Peace must be resident in their several counties, but apart from this no qualifications for appointment to the office, except general directions that they should be men "of the best reputation and most worthy men in the county" or "of the most sufficient knights, esquires, and gentlemen of the law," were prescribed by the Statutes until the 18 Henry VI. c. 11, which enacted that no Justice should be put on the Commission if he had not lands to the value of 20L per annum. This qualification was raised by the Statute 5 Geo. II. c. 11 to one of 100L per annum and by 18 Geo. II. c. 20 it was provided that every Justice of the Peace must have in possession either in law or equity, for his own use and benefit, a freehold, copyhold, or customary estate, for life, or for some greater estate, or an estate for some long term of years, determinable upon one or more lives or lives, or for a certain term originally created for 21 years or more in lands, tenements, or hereditaments, in England or Wales, of the clear yearly value of 100L above all incumbrances, &c., or else must be entitled to the immediate reversion or remainder of, and in such lands, &c.; leased for one or more lives, or for a term determinable on the death of one or more lives, upon reserved rents of the yearly value of 300L.

The Act of 1875, 38 & 39 Vict. c. 54, modified this qualification by admitting as eligible for appointment persons owning leaseholds and living in the county in a house rated at more than 100L a year.

Finally, in 1906, by the Statute 6 Edward VII. c. 16, the property qualification was abolished altogether. It is to be observed that this property qualification applied only to English and Welsh county justices.

Many of the boroughs in former times enjoyed under ancient charters or by prescription the right of appointing their own Justices and holding Courts of Quarter Sessions. Section 5 of the Statute of 27 Henry VIII referred to above expressly provided that "all cities boroughes and townes corporate within this "

realme which hath libertie power and auctoritie to have justices of peace or "

justices of gaole delyverey still have and enjoy thir liberties and auctorities in "

that behalf after such like maner as they have ben accustomed, without any "

alteration by occasion of this Acte; any thing in this Acte or in any article "

therein conteyneyd to the contrarie thereof notwithstanding."

Most of these ancient privileges were abolished by the Municipal Corporations Act, 1835, and the remainder disappeared under the Municipal Corporations Act, 1888. But the Act of 1835 provided that the Crown, on the petition of the council of the borough, might grant to any borough a separate Commission of the Peace, and also a separate Court of Quarter Sessions.
EX-OFFICIO JUSTICES OF THE PEACE.

The Municipal Corporations Act, 1835, provided that the Mayor of every Municipal Borough should be an ex-officio Magistrate in the Borough during his year of office and for the succeeding year. This provision was continued by the Municipal Corporations Act, 1882. By the Local Government Acts, 1888 and 1894, the Chairmen of County Councils and of District Councils are also Justices of the Peace during their term of office.

FORM OF COMMISSION.

Justices of the Peace are, as we have seen, appointed by a Special Commission under the Great Seal, except in Lancashire, where they are appointed under the Seal of the Duchy. The old form of Commission which was settled by all the Judges in 1590 appointed all the Justices jointly and separately to keep the peace, "and any two or more of them to enquire of and determine felonies and other misdemeanours: in which number some particular Justices, or one of them, are directed to be always included, and no business to be done without their presence, the words of the Commission running thus: 'quorum aliquem vestrum A., B., C., D., etc., unum esse volumus,' whence the persons so named are usually called Justices of the Quorum. And formerly it was customary to appoint only a select number of Justices, eminent for their skill and discretion, to be of the quorum; but now the practice is to advance almost all of them to that dignity, naming them all over again in the quorum clause except, perhaps, only some one inconsiderable person for the sake of propriety; and no exception is now allowable for not expressing in the form of warrants, &c., that the Justice who issued them is of the quorum." 1

The practice of appointing Justices of the Quorum which was virtually obsolete in Blackstone's time is now entirely so.

The old form, however, remained unaltered until 1878, when, under the rules made in pursuance of the Crown Office Act, 1877, a common form was prescribed for Commissioners of the Peace under the Great Seal for counties in England and Wales, and also for boroughs in England and Wales.

The County Commission is addressed to the Lord Chancellor, the Lord President of the Council, the Lord Keeper of the Privy Seal, the several Members of the Privy Council, the Lord Lieutenant, the Lord Chief Justice, and other Judges of the High Court, to the Attorney and Solicitor-General for the time being, and to the persons named in the Schedule annexed to the Commission.

The Borough Commission is addressed to the Mayor of the Borough and the persons named in the Schedule.

On appointment of new Justices the practice is not to issue a new Commission, but merely to add the names of the new Justices to the Schedule until the Commission becomes unwieldy or contains the names of an unusually large number of dead persons.

SESSIONS OF JUSTICES OF THE PEACE.

The Sessions of Justices of the Peace are of two kinds—(1) General Sessions and General Quarter Sessions; and (2) Petty Sessions and Special Sessions.

General Quarter Sessions are those which are held in the four quarters of the year in pursuance of the Statute of 2 Henry V. c. 4, and later Acts, and General Sessions are other Sessions held at any other time for the general execution of the authority of Justices of the Peace which by the above-mentioned Statute they are authorised to hold oftener than at the times therein specified.

The term Petty Sessions is given to a Session of two or more Justices meeting at regular intervals or fixed times for the purpose of attending to various matters which by Statute they are required to do out of Quarter Sessions.

Special Sessions is the name given to Petty Sessions held to transact certain business of which special notice has to be given beforehand.

Whereas the Court of Quarter Sessions is a Court of Sessions of the Peace for the whole county, the jurisdiction of Petty Sessions is in practice confined to the particular Petty Sessional division, and though the Justices are Justices of the Peace for the whole county, by custom they attend only the Petty Sessions of the division to which they are attached.

Petty Sessional divisions were constituted by the Statute 9 Geo. IV. c. 48, which authorised the Justices at Quarter Sessions to divide the county into Petty Sessional districts.

It may be mentioned that the total number of districts in England and Wales for which Courts of Summary Jurisdiction are established is 1,001, viz., 750 Petty Sessional Divisions of Counties and Liberties, and 251 Boroughs having separate Commissions. The City of London and the Liberty of Romney Marsh have Justices appointed otherwise than by Commission. In the 14 Metropolitan Police Court Districts there are 25 Police Magistrates; and in 14 Boroughs and in 6 other areas there are 20 Stipendiary Magistrates.

There are 61 Courts of Quarter Sessions for Counties and Liberties, and 163 Boroughs have separate Courts of Quarter Sessions.

**Powers and Duties of Justices of the Peace.**

The power, office, and duties of a Justice of the Peace depend on his commission and on the several Statutes which have created objects of his jurisdiction.

His primary duty is to keep the peace. This term covers such matters as swearing in members of the county and borough police forces, and appointing special constables when a disturbance of the peace is likely to occur; taking necessary measures to suppress actual riot; taking sureties for good behaviour from persons from whom there is reason to apprehend violence; and ensuring that persons suspected of crime are brought to Justice.

Secondly, the Justices assembled in Quarter Sessions are empowered to try and determine felonies and misdemeanours committed in their county, provided that the more serious cases are reserved for the Judges of Assize.

Thirdly, Justices sitting as a Court of Summary Jurisdiction have been invested by Statute with the power of dealing summarily with a very large number of criminal offences.

Fourthly, various functions in civil matters have from time to time been assigned by Statute to Justices of the Peace. The most important of these is the licensing of places for the sale of intoxicating liquor. They have also jurisdiction in such matters as Affiliation Orders, Separation and Protection Orders, disputes under the Employers and Workmen Act of 1885, &c.

Finally, Justices of the Peace have a number of duties which have been called "ministerial," particularly the taking of declarations under certain Acts of Parliament.

The powers and duties of Justices of the Peace in Scotland are much less extensive than in England and Wales. In Scotland Justices of the Peace are empowered to deal with statutory offences under certain Acts, such as the Children Act and Cruelty to Animals Act, and with small debt cases not exceeding £5. They possess certain administrative functions, for instance, licensing; and they are called upon to perform ministerial duties similar to those performed by English Justices. But their criminal jurisdiction is extremely limited.

**Methods which have of late Years regulated the Selection of Justices.**

Recommendations of persons to be appointed Justices of the Peace for counties are usually made to the Lord Chancellor by the Lord Lieutenant. It is important, however, to observe that the position which the Lord Lieutenant occupies in regard to the appointment of Justices is not one of right but of custom.

The origin of this custom is not easy to trace, but it apparently dates from about the end of the 18th century. In the debate in the House of Lords of May, 1838, Lord Holland expressed the belief that it came into existence in consequence of an attack upon Lord Somers. But in his evidence before us Lord Loreburn referred to a copy of a proceeding at Quarter Sessions about the year 1745, "from which it appeared that Lord Hardwicke, who was then Lord Chancellor, had written to the county members, asking them if they could recommend to him suitable persons to be justices of the peace, and they came to Quarter Sessions and asked the Grand Jury to furnish them with a list of suitable names."

1 Simpson, Minutes of Evidence, Q. 403, p. 24.
2 Loreburn, Q. 243, p. 11.
The office of Lord Lieutenant has for a long time past been invariably combined with that of Custos Rotulorum, or Keeper of the Rolls of the Justices. Thus, in addition to his high rank and extensive local connections, the Lord Lieutenant is virtually the head of the magistracy in his county, and therefore a person whose assistance the Lord Chancellor would naturally seek.

Attempts, however, to claim on behalf of the Lords Lieutenant any absolute right to recommend persons for appointment, or to be the sole channels through which recommendations should be made, have usually evoked vigorous protests from the Lord Chancellors and others.

In 1830, in the course of a debate in the House of Lords, the Lord Chancellor, Lord Brougham, warned the Lords Lieutenant that he would interfere unless they made a wider selection of Justices. Speaking in the same debate Lord Eldon said that in the event of efficient persons being omitted by the Lords Lieutenant, it was in the power, and he might add it was the duty, of the Lord Chancellor to correct these omissions whenever they came under his observation.

In 1838, Lord Cottenham, then Lord Chancellor, vigorously repelled an attack made upon him for not accepting the advice of a Lord Lieutenant, and it was on this occasion that the Duke of Wellington said that "he knew, and he believed" that the Lords Lieutenant in general knew, that the right to appoint the "great seal. Courtesy and custom had enabled the Lords Lieutenant to recommend to the person holding the great seal, the names of gentlemen who were "to be Magistrates."

In more recent times the practice of Lord Chancellors in dealing with the recommendations of the Lord Lieutenant has varied.

Lord Halsbury when giving evidence before us stated that "in 99 cases out of 100 he accepted the recommendation of the Lord Lieutenant as a matter of course."

Lord Herschell at first followed the same practice. In 1893 he informed a deputation that "while the legal right of appointing Magistrates for counties as well as for boroughs was vested in him alone, he himself did not feel justified in setting aside the long standing practice and constitutional usage which had grown up of limiting the county appointments to persons nominated by the Lord Lieutenant unless he was fortified in doing so by an unequivocal declaration of the opinion of the House of Commons."

Shortly afterwards, on the 5th May, 1893, the following resolution, moved by Sir Charles Dilke, was carried in the House of Commons:

"That in the opinion of this House it is expedient that the appointment of county magistrates should no longer be made by the Lord Chancellors of Great Britain and Ireland for the time being only on the recommendation of the Lords Lieutenant."

Lord Herschell acted upon this resolution by making many appointments without any recommendations from the Lords Lieutenant.

The present Lord Chancellor described his own practice in the following words:

"My view is that no Lord Chancellor ought to admit any right in anyone to control his judgment. It would be intolerable if he were required to bear the whole responsibility for appointment which the law entrusts solely to him, but were constrained to act upon the opinion of someone else. My own practice has been to communicate freely with the Lords Lieutenant, and I have done so with every one of them whenever any difficulty has arisen, or any complaints from any county. With very few exceptions they have been quite willing to co-operate, and have taken a great deal of trouble. My endeavour has been, in the first instance, to procure an agreement in the county itself, so that if possible the Lord Lieutenant should communicate himself with representative people of all opinions in the county, and frame a list which would give general satisfaction. This has been done in something like 35 or 40 counties "out of 98, including sakes, liberties, ridings, and counties of cities. In a good many of them it already had been the practice of the Lord Lieutenant to gather opinion on the spot and make recommendations accordingly, and no substantial complaint had ever reached me in regard to these omissions whenever they came under his observation."

1 Hansard, 3rd Series, Vol. I., 678.
to those counties. Where, however, this has not been practicable, and trouble has arisen accordingly, I have interposed. The result has been that I have acted with the concurrence of the Lords Lieutenant in regard to almost all the appointments that I have made in my term of office. In the years 1906-7, 1908, and 1909, 6,531 Justices of the Peace were appointed in counties—that is including soke, liberties, ridings, and so forth, and I should think 98 to 99 per cent, have been appointed with the concurrence of the Lord Lieutenant. It is only in a very few cases that I have been obliged to appoint without his concurrence.

In the county palatine of Lancaster, in the year 1870, a change was made in the manner of appointing County Justices. In that year owing to the large and unnecessary number of County Justices made during the five or six preceding years, chiefly as rewards for political services, and to the grave dissatisfaction which had arisen with the system upon which the appointments were made, Lord Dufferin, who was at that time Chancellor of the Duchy, resolved to amend the procedure. A minute, dated the 28th April 1870, was accordingly passed with the consent of the Cabinet, over which Mr. Gladstone presided, directing that in future all appointments to the county bench should only be made upon the nomination of the Lord Lieutenant.

This Minute was acted upon from 1871 to 1893 when Mr. Bryce, after some correspondence with Lord Sefton, who was then Lord Lieutenant of Lancashire, revoked the Minute of 1870.

On the 7th March 1893, Mr. Bryce signed the following Minute:—

Appointment of Magistrates for the County Palatine. The Chancellor of the Duchy considering it expedient to revert to the mode of appointing Magistrates for the County Palatine of Lancaster established by the Council Minute of April 28th, 1870, places his signature to a memorandum in the following form:— It appearing to the Chancellor of the Duchy, after consultation with Her Majesty’s other Ministers, that the selection of Magistrates for the County Palatine in accordance with the Memorandum of March 7th, 1893, has produced results very injurious to the public service, withdraws that memorandum, and reverts to the practice which prevailed prior to the above date, under which the Chancellor of the Duchy received recommendations from various quarters, and himself selected persons to be appointed magistrates for the County Palatine. Her Majesty signified Her approval of this arrangement.

In 1895 on a change of government there was a return to the arrangement effected by Lord Dufferin, and on the 27th January 1896 the following Minute was recorded in the records of the Duchy Council:—

Appointment of Magistrates for the County Palatine. The Chancellor of the Duchy considering it expedient to revert to the mode of appointing Magistrates for the County Palatine of Lancaster established by the Council Minute of April 28th, 1870, places his signature to a memorandum in the following form:— It appearing to the Chancellor of the Duchy, after consultation with Her Majesty’s other Ministers, that the selection of Magistrates for the County Palatine in accordance with the Memorandum of March 7th, 1893, has produced results very injurious to the public service, withdraws that memorandum, and reverts to the practice established by the Minute of March 7th, 1893, under which the Magistrates for the County Palatine were appointed by the Chancellor of the Duchy upon the recommendation of the Lord Lieutenant of the County Palatine, subject to the conditions set out in the said Minute of April 28, 1870. Her Majesty has signified Her approval of this arrangement.

The practice indicated in this Minute continued until 1906. It was then modified by Lord Wolverhampton, who, in reply to a question addressed to him by Lord Derby, then Lord Lieutenant of Lancashire, said, employing somewhat doubtful phraseology, that he would always be pleased to appoint any magistrate so nominated by the Lord Lieutenant, but for the reasons he gave he should reserve to himself the right to receive general applications from Lancashire with reference to the County Benches, and if he desired to do so to recommend them himself to the Lord Lieutenant for his special consideration, and if he saw no reason to the contrary forward his nomination back to him as Chancellor for appointment.

1 Loreburn, Q. 243, p. 12. 2 Smith, Qs. 621-623, p. 33. 3 Mitchell, Q. 639, p. 36. 4 Mitchell, Q. 646, p. 36. 5 Mitchell, Q. 650, p. 36.
In 1905, when Lord Shuttleworth became Lord Lieutenant, Lord Wolverhampton decided to revert to the practice established in 1871, and directed that in future all recommendations should in the first instance be made by the Lord Lieutenant. He reserved to himself, however, pro forma, the right to place before the Lord Lieutenant the names of any persons whom he specially desired to appoint. This arrangement has been continued by Lord Wolverhampton's successors in office up to the present time.

**Position and Opportunities of the Lord Lieutenant.**

It is obvious that the Lord Lieutenant cannot be personally acquainted with every possible candidate for the Bench. He is bound therefore, particularly if his be a large county, to seek assistance and obtain advice and information from others.

The methods pursued by the different Lords Lieutenant in obtaining information appear to vary widely, but apparently the persons most usually consulted are the Chairmen of Quarter Sessions, the Chairmen of Petty Sessions, the Clerk of the Peace, and the Clerks to the Justices. In addition to these, however, the Lord Lieutenant, as a rule, would rely upon the advice which he could procure from a large circle of personal friends in whose discretion and judgment he could place confidence. Some Lords Lieutenant seem to work upon a more systematic plan than others, but, generally speaking, there would appear to be some ground for the suggestion that the opportunities of obtaining information afforded to the Lord Lieutenant are insufficient and the results therefore unsatisfactory.

It appears that the Lords Lieutenant have not in all cases before making recommendations ascertained whether additional Justices are required in the public service. It would be an advantage if this duty were imposed upon them. It is true that an inquiry of this kind is attended with some difficulty, as there is no prescribed complement for each Bench, and therefore it is not a simple question of filling up vacancies. The problem which the Lord Lieutenant has to solve is whether there are a sufficient number of Justices actively discharging their duties in each Petty Sessional Division, and, in determining this, regard must be had not only to the attendances at Sessions but also to the sufficiency of Justices for the purpose of discharging duties of an administrative rather than a judicial nature attached to the office.

In one instance, referred to before us, the Lord Lieutenant, assisted by a small informal committee, had made careful inquiry as to the necessities of each Petty Sessional Division in the county, which enabled him to determine very closely the normal number of Justices required for each division. It is doubtful whether such careful inquiries are instituted in all cases. It is probable that there is a tendency to submit recommendations to the Lord Chancellor irrespective of the actual needs of the county.

The same difference in practice of the different Lords Lieutenant is to be found in the actual selection of names for recommendation. No doubt in most cases the Lords Lieutenant are not content until the qualifications of candidates are verified by repeated inquiries from various sources. But in some cases it has been alleged that there has been a disposition on the part of the Lord Lieutenant to rely mainly if not wholly on the advice of one or two particular persons whose social or political predilections may influence the Lord Lieutenant's choice. We think that such paramount influence where it exists has an injurious effect and is to be regretted.

In addition to the recommendations made by the Lords Lieutenant, the Lord Chancellor receives, particularly in the case of appointments to the Borough Benches, a large number of recommendations from Members of, or candidates for, Parliament, and even from political associations and agents. Some recommendations are also received from non-political organisations such as trade unions.

**Dissatisfaction with Existing Methods of Selection.**

The appointment of Justices and the method of their selection have from time to time been the cause of complaint and dissatisfaction which have found expression in debates in Parliament. The debates in the House of Lords in 1830 and 1838 and that in the House of Commons in 1893 on Sir Charles Dilke's motion have already been mentioned. Since 1905, there have been discussions in the House of Lords on three occasions, in 1906, 1907, and 1909; and in the House of Commons several Bills have been introduced proposing alterations in the system of selection.

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1 Mitchell, Q. 653, p. 36.  
2 Fortescue, Q. 2613, p. 124.
In December 1906 the present Lord Chancellor received a Memorial on this subject, a copy of which we reproduce in the Appendix to this Report. This Memorial was signed by 88 County Members.

Speaking generally, in 1905 there was a great preponderance on most of the County Benches of Justices of one political complexion. There were several reasons for this inequality. It was due, as the Lord Chancellor told us, partly to the system and partly to other causes.

In the first place, the majority of persons with whom the Lord Lieutenant is personally acquainted, and from whom he probably derives his information, are Conservatives in politics.

Lord Loreburn stated in his evidence:—"Social life in most counties among those who are well-to-do is mainly Conservative, and in a good many places political feeling is apt to run high. There is often a large field of selection, and it is natural that men should regard more favourably those who are of the same opinions as themselves. I think this largely accounts for the fact that there is a constant disposition to prefer Conservatives in the recommendations made to the Lords Lieutenant, apart from any intention of doing what is unfair. In a few counties, which I happen to know about, there has been a distinct and deliberate wish to exclude Liberals because they are Liberals, but I do not think that is usual, and in hardly any case is that the wish of the Lord Lieutenant. It is done, where it is done, by the political partisanship of those upon whom he relies for advice. I do, however, think that party and social predilection have the effect automatically of causing a great predominance of gentlemen of one set of opinions being brought before the Lord Lieutenant, though there may be no desire to act unfairly."

The preponderance of Conservatives was no doubt accentuated by the secession in 1886 from the Liberal Party of those who were opposed to Mr. Gladstone's Home Rule Policy.

Another cause was the property qualification which was not abolished until 1906. This qualification automatically restricted the field of selection and no doubt excluded a large number of Liberals who were otherwise suitable for the position.

This preponderance of Justices drawn from one political party has been described as a "political misfortune." The impression that persons of one set of political opinions were in practice being excluded from appointment has engendered a sense of dissatisfaction which it is of the highest importance to dissociate from the administration of justice. In the Lord Chancellor's words, "it is contrary to the public interest that the authority of the Bench of Justices should be weakened by any widespread suspicion that the members of it are not fairly selected."

At the same time it is right to point out that some of the indignation aroused in connection with appointments to the Bench is due to the fact that the office of Justice of the Peace is often desired for the sake of the social distinction which it is thought to confer. If there are many more of one party than another who have the right to affix the letters J.P. to their names the grievance is deeply felt. We regret this state of feeling, and we think that no opportunity should be lost of emphasising the strictly judicial character of the Justice's office. In this connection we are glad to be able to report that no important evidence has been given to the effect that the Justices' decisions have been tainted by political partisanship.

Recognising as we do the important judicial and administrative duties to be discharged by Justices of the Peace, we entertain a strong opinion that their selection should be controlled and guided by considerations which will secure that the office shall be filled by men of sufficient ability, of impartial judgment and high character.

The present practice and system of selection frequently results in the absence or deficiency of those attributes.

The suggestion that a person should be appointed as a Justice of the Peace sometimes proceeds from himself. Also in some cases the applicant appeals to the political agent with whom he has been associated. In that event the next step often is for the political agent to prepare a list of applicants to be submitted in counties to the Lord Lieutenant, in boroughs to the Lord Chancellor, frequently through the agency of the Member of Parliament or some candidate concerned. These lists are prepared with the object of rewarding and encouraging political support and of assisting party political interests.

Naturally the chief qualification sought for is political service. The political agent does not represent himself as a judge of the fitness of the applicant to be selected as a Justice of the Peace. The Member of Parliament who forwards his name to the Lord Lieutenant or Lord Chancellor may be deficient in local knowledge and in opportunity of judgment. In such cases it is difficult for him as a politician to reject the agent’s list and naturally it is not infrequently accepted. The evils of such a system of selection to a judicial office are surely apparent.

In the first place all political parties seek to take advantage of any available opportunity to demand and secure the appointment of Justices; such demand proceeds from a desire to strengthen party interests.

Little care is given to the existing number of Justices already in the Commission. Benches may be crowded, and yet the appointment of more Justices is demanded and strongly supported.

A phase created by the present system should be noted.

In the different localities the political opinions of the Justices are ascertained, and count is taken of the so-called “balance” of party strength.

As we have stated, for some years past a majority of Justices on the Commissions have belonged to the Conservative or Unionist party. This has proceeded from different causes as indicated above.

In many cases the numerical preponderance of one party on the magisterial benches is noted and resented, whilst the causes which have occasioned it are forgotten or ignored. A desire then springs up and a claim is made “to redress the balance.” This claim is then presented to the Lord Chancellor, full political support is afforded to it, and unfortunately those who make and support this claim are often willing to see the redress of the balance secured without making sufficient inquiry as to the magisterial qualifications of the persons nominated.

Thus it is that in many districts the selection of even competent Justices of the Peace is regarded as the result of party success, and the Justices themselves are regarded as the representatives of a political party or of a social class. Their character for impartiality may be wrongly enough imperilled, and that respect without which the due and effective administration of the law is unattainable is injuriously affected.

The views expressed by Lord Lansdowne in the House of Lords on 22nd April 1907 appear to be deserving of approval. Lord Lansdowne said:—“I regret as much as the noble and learned Lord regrets that in the result it should prove to be the case that so enormous a preponderance of magistrates in some counties should be drawn from one political party rather than the other. That is a political misfortune; but it would be a still greater misfortune if, in order to redress the disparity, incompetent persons were appointed recklessly and in a wholesale manner.”

We also recognise the existing inequality, and regret it, although the disparity of which Lord Lansdowne spoke in 1907 has been appreciably reduced during the last three years. Those who appoint Justices or make recommendations for appointment ought not to be indifferent to the existence of this inequality, and should endeavour “to redress the balance” so far as public interests will permit.

It is well that this gradual process should be pursued, for it is better that time should be occupied in curing or mitigating the disease, than that resort should be had to a remedy which would tend to reproduce the disease itself.

SUGGESTED REMEDIES FOR EXISTING EVILS.

But how are remedies for these evils to be found? Speaking very generally we in the first place express the opinion that the evils now existing in the system of selecting Justices of the Peace can, to a great extent, be remedied by removing political opinions and political action from the influences affecting such selection.

The substitutes for such political opinion and influences should be found in the fitness of the intended Justices, and such fitness should be constituted by their moral and personal character, their general ability, business habits, independence of judgment, and common sense.

It has been well said that the strength of the law depends upon the respect in which it is holden. It is equally true that respect for the judges who administer the law represents its strength.

1 Hansard, 4th Series, Vol. CLXXII, 1362.
Acting as a judge within a limited area a man's character, habits, and worth are well known. An unworthily chosen Magistrate brings discredit upon the system of voluntary untrained Justices.

The voluntary system, no doubt, excludes the existence of a high judicial standard; but such standard may find some equivalent if only men of high character and intelligence be appointed to act as Justices.

Political zeal and decided political convictions in no way represent such equivalent standard.

We therefore express the confident view that political opinion or political services should not be regarded as in any way controlling or influencing the appointment of Justices. The man most fitted to discharge the duties of the office should be appointed. The declaration contained in the Statute of Henry V should still prevail: Justices of the Peace must be residents in their several counties, “of the best reputation, and most worthy men in the county.”

We seek to enforce these views by recording an opinion, formed after full inquiry, that appointments influenced by considerations of political opinion and services are highly detrimental to public interests, and tend to lower the authority of the Magisterial Benches in the country.

We hold also that anyone who takes share or part in giving effect to such influence is playing an injurious part in the citizenship of the country, and is therefore deserving of much censure.

We are aware that we are condemning a practice which has existed in different degrees for a long period.

Mere sentiment will not be strong enough to abolish it; the expression of theoretical opinion will be equally unavailing. We are, therefore, making an attempt by practical observations and suggestions to strengthen the hands of those who desire to see the appointment of Justices uninfluenced by political opinions or the claims of political service.

We have shown how necessary it is to consider the qualities which render a person suitable to be a Justice of the Peace, and we have already referred to the important judicial and administrative duties which the holders of the office are called upon to discharge. We have also expressed the opinion that in view of these duties it is necessary that Justices should be men of sufficient ability, of impartial and independent judgment, and of high personal character. But it is also in the public interest that they should be men who command general confidence. And for this reason also it is desirable that the area of selection should be wide, and the choice comprehensive, so that the Bench may include men of all social classes and of all shades of creed and political opinion.

The removal of the property qualification for County Justices by the Act of 1906 has of course materially enlarged the field of selection. Under the operation of this Act members of all classes are eligible for appointment, and we concur in the view which has been presented to us very forcibly that it is in the public interest that working men with a first-hand knowledge of the conditions of life among their own class should be appointed to the County as well as to the Borough Benches.

But the more the area is extended, the more difficult becomes the task of selection; and this difficulty must be recognised in deciding upon the method which should be adopted.

**Appointment of Justices to Remain with the Crown.**

We are strongly of opinion that the appointment of Justices of the Peace should continue to be made by the Crown. We have received very little evidence in favour of the popular election of Justices, and such evidence as has been given in this direction has been rather as a suggestion of a means for redressing the political balance than as an ideal system.

The appointment of judicial officers of any kind by direct popular election is altogether opposed to English constitutional usage. Popular election would probably mean political election. The influence which we have so strongly condemned would thus be rendered all powerful.

Neither can we accept a popular electorate as furnishing good judgment in the selection of men for magisterial office.

It has also been represented to us that it is expedient that the number of ex-officio Justices should be increased, and the duration of their term of office
We do not agree with this view. A man may be well fitted to be chairman of a local body without possessing the qualities to be desired in a Justice of the Peace. Those who elect their chairman do not regard his fitness for the Magistracy.

**LORD CHANCELLOR TO ADVISE THE CROWN.**

So long as appointments are made by the Crown, the Lord Chancellor is obviously the most suitable Minister to be entrusted with the duty of advising upon the selections to be made. He is not only the Keeper of the Great Seal under which the commissions are issued. He is also the head of the Justiciary, and in that character is entrusted with the task of deciding what is best for the administration of justice. He is Your Majesty's responsible adviser in regard to the appointment of Judges, and in giving such advice he does not act as a politician. The keeper of the Sovereign's conscience can regard only the welfare of the State. He is a Minister of the highest dignity and importance, and as little subject to influence or political pressure as any Minister can be. The chief difficulties with which he has to contend, namely, lack of personal and local knowledge and dependence on information derived from others, would also confront any other Minister or committee of Ministers.

Our conclusion, therefore, is that the Lord Chancellor should continue to discharge the duty of appointing Justices of the Peace. At the same time we think it well to quote from the present Lord Chancellor's evidence on this point.

"If," he said, "it be decided that the Lord Chancellor should remain the final authority upon this subject, I think it cannot be too strongly impressed upon the public at large that this duty is closely connected with the administration of justice, and for that reason they ought to support him in administering it in a judicial spirit and not as appertaining to his administrative position as a member of the Government of the day."

In the County Palatine of Lancaster the Chancellor of the Duchy occupies a position in relation to the appointment of Justices of the Peace similar to that which the Lord Chancellor holds in the rest of England and Wales. We are of opinion that the Chancellor of the Duchy should continue to discharge the duty of advising the Crown in regard to the appointment of Justices within the county.

**FUTURE POSITION OF LORDS LIEUTENANT.**

We are of opinion that the Lords Lieutenant of Counties should, subject to what is hereinafter stated, retain the practice of making recommendations to the Lord Chancellor of persons for appointment as Justices of the Peace.

The peculiar position which the Lord Lieutenant occupies has been referred to above. In the capacity of Your Majesty's representative, he has a position in the county which no other person can attain. That position gives him great opportunities of acquiring trustworthy information as to the character and qualities of candidates for the Bench. Moreover, as "Custos Rotulorum" he is the head of the Magistracy in the county.

We are aware that charges have been brought against the Lords Lieutenant on the ground that they have shown political partiality in their recommendations. Except in a few cases, no evidence has been given before us in support of these charges. The present Lord Chancellor has on more than one occasion testified to the desire of the Lords Lieutenant to act with fairness and discretion when submitting recommendations to him.

In his reply to the Memorial addressed to him by the Liberal County Members in 1906 Lord Loreburn wrote as follows:

"It is bare justice, I should say, that, with rare exceptions, the Lords Lieutenant with whom I have been in communication have acted and advised impartially, and have taken much pains; not always, indeed, agreeing with my views, but, as I believe, because they consider that their position as representatives of the Crown imposes on them the duty. If, in any cases, the names forwarded to them have come to be known and canvassed in political circles, it is a most legitimate grievance, but I do not believe it is any fault of theirs. Without their help it would be impracticable to transact the business, and they have often warned against and so prevented most undesirable appointments."
We desire to express our anticipation that the Lords Lieutenant will recognise the advancing claim for democratic consideration. The legislation of 1906 formally declared the opinions of the legislature in this direction, and mingling as the Lords Lieutenant do with those who can well represent public opinion, we express the strong hope that in the future they will attach no heed, except to the extent mentioned in this Report, to the political or religious opinions of those who are recommended for appointment to the office of Justices of the Peace.

But in order to assist both the Lords Lieutenant in recommending and the Lord Chancellor in appointing Justices, we desire to make the following recommendations:

**Advisory Committees.**

We recommend that in every county one or more Justices' Committees, consisting of not more than five members, should be appointed by the Lord Chancellor. Of such Committees the Lord Lieutenant should be a member, if he be willing to serve.

In constituting these Committees regard should primarily be had to the importance of giving them a representative character, so as to secure the expression on them of different views and currents of public opinion.

The duties of such Committees should be to advise the Lord Chancellor on the following subjects:

1. The number of Justices taking active share in the discharge of magisterial duty in each Petty Sessional Division, and the number of Justices required for the due discharge of such duties.
2. The necessity, if it exists, for appointing additional Justices.
3. The desirability of calling upon Justices in certain cases to resign on account of non-attendance.

In the selection of Justices we recommend that it will be well to leave the power of recommendation with the Lord Lieutenant, but that he shall receive suggestions from the Committee, and transmit these suggestions to the Lord Chancellor. Also that the Lord Chancellor shall, when he thinks right, consult the Committee upon the fitness of relative claims of suggested candidates. Full power should be reserved to the Lord Chancellor to control the practice and procedure of the Committee.

We think it should be within the power of the Lord Chancellor to appoint a similar Committee in every Borough having a separate commission on the peace.

**Considerations affecting the Appointment of Justices.**

Although we have expressed a strong opinion that no appointments should be made on the ground of political opinions or services, it is even more important that no one should be excluded from the Bench on account of his religious or political opinions. For, as we have said, the strength of these Magisterial Benches depends upon the respect in which their occupants are held. To earn that respect and confidence it is well that the public should recognise that the Benches are open to men of every shade of political opinion and of every religious faith.

For similar reasons we regard as desirable the admission to the Benches of men of every social grade. When the Legislature in 1906 abolished the property qualification for County Justices, a declaration was made that property ought not to disqualify a man for being placed in a Commission of the Peace.

Besides the importance of obtaining as far as possible on each Bench adequate representation of different views in politics and religion and of different social classes, it is also in our opinion necessary to have Justices resident in every part of every division of the county, so as to avoid any inconvenience in obtaining the issue of summonses, the taking of declarations, and the performance of other magisterial duties exercisable out of sessions.

**Interference of Members of Parliament.**

We have in the course of this Report shown how leading is the part in the recommendation of Justices urged upon Parliamentary Members and Candidates. We strongly condemn such interference. It is essentially political in origin and
effect. A Member of Parliament is necessarily placed in a false position when he is urged, possibly on political grounds, to make recommendations which go beyond his personal knowledge.

Both the Lord Chancellor and the Lords Lieutenant must often be greatly embarrassed by the receipt of political demands they cannot with propriety accede to. Their refusal to do so produces complaint and criticism, injurious to all interests.

We therefore strongly urge those who may be the Lord Chancellor or Lords Lieutenant or members of an Advisory Committee that they should firmly refuse to receive any applications, or unasked-for advice to appoint Justices, from Members of Parliament or Candidates in their own constituencies, or from political agents or representatives of political associations. If such rule be made and acted on all concerned, especially Members of Parliament and Candidates, will be able to escape from a position they must deplore.

It may be that the Member of Parliament may be able to afford useful information and advice. There is nothing in this Report which would prevent the Lord Chancellor or Lords Lieutenant or members of an Advisory Committee applying for such assistance. It is only unasked-for action we condemn.

We feel compelled to make the above suggestion. Our Commission bids us labour to find a remedy for an evil assumed to exist. It is therefore our duty to suggest steps for securing the selection of Justices of the Peace unaffected by their supposed political merits.

We believe that the loyal acceptance of the above recommendation would do much to secure such result.

**APPOINTMENTS IN LANCASHIRE.**

The appointment of Justices in Lancashire stands apart. But we think that our recommendations as to the creation of Advisory Committees and the repudiation of political influence should apply equally to the County Palatine as to the rest of the country.

**DISCHARGE OF DUTIES.**

By many who are appointed Justices the office is regarded as one of social distinction only, the duties of the office are forgotten and the discharge of them disregarded.

Numerically a Commission of the Peace may thus become overladen, whilst sufficient Justices willing to discharge the duties of their office cannot be relied on. This is an evil which should be remedied.

We suggest that every Justice on appointment should be required formally to undertake to fulfil his fair share of magisterial duties, such fair share to be controlled locally by rota or otherwise. The attendances of every Justice at Petty Sessions should be certified annually by the Clerk of the Justices to the Lord Chancellor, and if it appeared to the Lord Chancellor that there had in any case been neglect of duty he should call upon the Justice for an explanation. In the absence of a valid excuse the Justice should be called upon to resign his office. If he refuses to do so, his name should be struck out of the Commission of the Peace.

It has been called to our attention that not infrequently Justices change their place of residence out of the area of the Commission for which they act into that of another. It seems to us that under such circumstances a request to be transferred to the Commission for the district in which the new residence is situated should receive very favourable consideration.

**APPOINTMENT OF BREWERS, LICENSED VICTUALLERS, TOTAL ABSTAINERS, &c.**

The representatives of several interests appeared before us and asked that greater consideration should be shown to those interests. For instance, it was strongly urged on behalf of those engaged in the liquor trade that but few of them are appointed Justices. There is no disqualification for appointment of Brewers and Licensed Victuallers by Statute. The number of these appointments is entirely within the discretion of the Lord Chancellor, and with the exercise of that discretion we cannot recommend any interference. The same observation applies to the claim of pawnbrokers for greater consideration.

Objection was taken to the appointment of total abstainers and particularly of advocates of total abstinence, who, it was alleged, fail in the discharge of their duties when dealing with licensing or cases affecting the liquor trade.
It was urged that such persons must be regarded as interested, and therefore that they ought not to be placed in a position to deal with cases affecting the liquor trade.

We cannot recommend that an advocate of total abstinence should be disqualified for appointment as a Justice. His interest is only one of opinion, which does not disqualify any Judge. By our law the interest that disqualifies must be pecuniary or material. If such a person refuses to exercise his discretion as a Justice, as he would if he refused to sanction all licenses, such negation of his duty would be dealt with by the Lord Chancellor.

**Stipendiary Magistrates.**

In our opinion the appointment of Stipendiary Magistrates does not strictly come within the terms of our Reference.

**Ireland.**

The terms of our Commission are general and would have enabled us to deal with the appointment of Justices in Ireland—but it was called to our attention that the Prime Minister had stated in the House of Commons that our inquiry was not intended to include Ireland—which might be dealt with by an independent and further inquiry. We, therefore, have not inquired into Irish appointments.

In conclusion, it remains only for us to express the hope that our labours may not be without fruit. We have endeavoured to show the necessity for raising the standard of character and efficiency of Justices of the Peace. We confidently appeal to those who recommend and appoint such Justices to consider the interests of the public, and to make it their care that only men fit to discharge judicial duties shall receive appointment. The task of effecting this result will not be difficult; public opinion will clear the way.

**Summary of Conclusions and Recommendations.**

The conclusions we have arrived at and the recommendations we make are as follows:

1. The appointment of Justices of the Peace should continue to be made by the Crown.
2. The Lord Chancellor as the head of the Justiciary should remain responsible for the advice given to the Crown in relation to the selection, appointment, and discipline of Justices of the Peace.
3. The Lords Lieutenant of Counties should retain the practice of recommending to the Lord Chancellor, for his approval, persons to be appointed Justices of the Peace, subject to the following conditions:
   (i) That the Lord Chancellor should nominate within each county one or more small representative Committees, to inform and advise the Lord Chancellor and the Lord Lieutenant.
   (ii) That the persons to be selected as members of the Committees, and the practice and procedure of the Committees, should be left to the discretion of the Lord Chancellor.
4. In boroughs the Lord Chancellor should have power to appoint similar Committees.
5. We are of opinion that it is not in the public interest that there should be an undue preponderance of Justices drawn from one political party.
6. We strongly condemn the influence and action of politicians being allowed to secure appointments on behalf of any political party.
7. We submit to the Lord Chancellor for the time being that he ought to reject and repudiate any such influence, and we equally urge that Lords Lieutenant and anyone recommending persons for appointment as Justices should decline to recognise political or religious opinions as any ground of qualification or disqualification.
8. We also submit that the Lord Chancellor and the Lords Lieutenant should refuse to receive any unasked-for recommendations for appointment from Members of Parliament or candidates for such membership in their own constituencies, or from political agents or representatives of political associations.
9. In view of the important judicial and administrative duties which Justices of the Peace are called upon to discharge, it is necessary that persons appointed to the office should be men of moral and good personal character, general ability, business habits, independent judgment, and common sense.
10. It is in the public interest that persons of every social grade should be appointed Justices of the Peace, and that working men with a first-hand knowledge of the conditions of life among their own class should be appointed to the County as well as to the Borough Benches.

11. The appointment of every Justice should be accompanied by a formal undertaking on his part to fulfil his fair share of magisterial duties, and in the absence of any valid excuse for neglect to discharge such duties he should be called upon to resign his office, and if he refuses to resign he should be removed from the Commission of the Peace. But a request on the part of a Justice who has changed his place of residence out of the area of the Commission for which he acts to be transferred to the Commission for the district in which the new residence is situated should receive very favourable consideration.

12. We do not recommend any alteration in the law affecting the qualification of any classes of persons to be appointed or to act as Justices of the Peace.

13. We do not recommend any increase in the number of ex-officio Justices, or any extension of the duration of their term of office.

In conclusion we desire to acknowledge the great assistance we have received in every stage of our inquiry from the Secretary of the Commission.

In the discharge of somewhat difficult duties Mr. Symonds has displayed great ability, assiduity and tact. By every member of the Commission his labours have been much appreciated.

(Signed) JAMES OF HEREFORD, Chairman.
CHICHESTER.
ROBERT CECIL.
HAMILTON OF DALZELL.
W. HART DYKE.
HENRY HOBHOUSE.
FRANCIS MOWATT.
OSMOND WILLIAMS.
EDWARD TROUP.
*FREDERICK VERNEY.
J. A. SIMON.
*W. RYLAND D. ADKINS.
*THOMAS G. ASHTON.
WILLIAM C. BRIDGEMAN.
ARTHUR HENDERSON.

JERSEY.

6th July, 1910.

The following letter has been addressed to the Chairman of the Commission:

Middleton Park,
Bicester.

MY DEAR LORD JAMES,

THOUGH I have been prevented by illness from attending the sittings of the Commissioners, I have closely followed the evidence laid before them.

I have carefully studied their Report, and fully concur in their conclusions. Should their suggestions be adopted, I believe that the difficulties occasionally incident to the present system of appointing Justices of the Peace would be materially minimised, if not entirely obviated.

Yours sincerely,

(Signed) JERSEY.

Whilst signing the above Report, we desire to be allowed to add the following memoranda:

(Signed) FREDERICK VERNEY.
W. RYLAND D. ADKINS.
THOMAS G. ASHTON.

* See Memorandum on page 16.
MEMORANDUM BY MR. RYLAND ADKINS AND MR. ASHTON.

Much of the value of our recommendations appears to us to rest upon their being inter-dependent, a feature of the Report to which we call special attention. We consider that the present one-sided composition of magisterial benches in many places is a greater evil than any that arises from the spontaneous action of Members of Parliament. If Members of Parliament are to have their action checked and limited in the way we have suggested in the Report, it is essential that simultaneously an advisory committee of the kind recommended should everywhere be formed, and that the Lords Lieutenant should not be allowed to maintain the almost exclusive power of nomination of magistrates which they have in the past century possessed, except in Lancashire. The one alteration of procedure, in our judgment, must at once involve the other, and therefore the inter-dependence of these principal recommendations is of their essence.

We would further express the opinion that of such a small committee the Lord Lieutenant need not necessarily be a member, as he does not of necessity always possess great knowledge of the residents of the county or even great experience of affairs.

Lastly, we attach special importance to the certainty that the suggestions of these committees should all reach the Lord Chancellor who appoints them.

(Signed) W. RYLAND D. ADKINS.

THOMAS G. ASHTON.

MEMORANDUM BY MR. VERNEY.

I find myself unable to sign this Report without recording an objection to clause 8 in the "Summary of Conclusions and Recommendations."

The advice there tendered to the Lord Chancellor and Lords Lieutenant appears to be outside the scope of our reference which is "to consider and report whether any and what steps should be taken to facilitate the selection of the most suitable persons to be Justices of the Peace, irrespective of creed and political opinion."

In many cases, where a Member of Parliament or a candidate knows a constituency well, he is the most competent man to give an opinion as to the character and reputation of those who desire to be made magistrates.

To impose upon them a special disability implies that they have made a practice of recommending improper appointments, an implication not warranted by the evidence laid before the Commission, and certainly not by the letter of the present Lord Chancellor to Sir John Brunner, printed in "The Times" of 29th December, 1906, where he says, "the great majority of the members who have sent me lists, have taken pains to recommend only suitable names, though even they are misled by false information. But some members have been far from careful, and close scrutiny is needed."

The only practical way of "refusing to receive" unasked-for recommendations would be to decline to appoint anyone recommended in this way, a proceeding in many cases so obviously unfair that no Lord Chancellor or Lord Lieutenant would be likely to adopt it.

It should not be forgotten that Political Agents and representatives of Political Associations are generally men selected as political leaders because of their local knowledge and position, who would be injured by recommending unsuitable persons as magistrates, many of them being themselves on the Bench.

While, therefore, cordially agreeing with the condemnation expressed in clause 6, and with what is urged in clause 7, it does not appear to me that the results equally desired by all the members of the Commission will be attained by the recommendations in clause 8, which impose silence on many who are peculiarly qualified to speak, and who perform an important public duty in making, or refusing to make, recommendations for the appointment of magistrates in localities where they often have personal knowledge, and are under special responsibilities.

(Signed) FREDERICK VERNEY.