Indian Statutory Commission.

In continuation of my Memorandum of the 2nd March, C.P. 67 (28), I circulate for the information of the Cabinet selections from my telegraphic correspondence with the Viceroy regarding the political situation in India in relation to the Indian Statutory Commission, and certain proposals which have been made as to the tactics to be adopted by the Commission and by the Government of India and Local Governments.

INDIA Office.

30th March 1928.

From Viceroy, 4th March 1928.

100 S. Private and personal. Your private and personal telegram dated 28th February, 577. My own view regarding locus panaetionis for Assembly coincides with yours, but before a definite decision is taken I think that we ought to give Governors opportunity of giving their views as to possible reaction in Provinces, vide para. 2, my telegram of the 20th ultimo. I will telegraph to you again when I have heard from them and from Simon. I fully agree with you that we should give no sign of what we or Commission are contemplating.

2. The question whether prorogation at end of March would help us over possible technical difficulty of making a motion in August is being further examined. The view at present taken is that action for election of a Committee would have to be by a motion and not resolution, and that, under Rule 24A of Indian Legislature Rules, a motion requires consent of President, which cannot be assumed.

3. As regards the last paragraph of your telegram, I think I ought to amplify what I mean by saying that Government should not abandon part of proposals to which they had attached importance. We must, of course, as you say, carefully avoid doing anything which would give the impression that Government were trying to run the Commission themselves, but I do not see how we can say, at this stage, that we are ready to jettison the whole idea of Committees working in association with Commission which I had regarded and announced, in terms approved by His Majesty's Government, as an integral part of scheme.

I think, therefore, that Government is, to this extent, very definitely concerned. We are in any case faced with practical difficulty that Council of State will certainly desire to represent their views through a Committee, and they would be gravely hurt if they thought Government held their views of such little account that they were ready to dispense with them so easily, and if, through no fault of their own, they were deprived of an opportunity of co-operation which they have expressed their willingness to take at a moment when their action was of particular value. The same applies, though to lesser degree, to those elements in the Assembly which have opposed the boycott. It was in order to ensure representation of such elements that we have held from the beginning that officials should vote on the personnel of Committees. The same considerations mutatis mutandis apply to the Provinces.

4. I think it would be a mistake to assume that because certain sections decline to accept the scheme offered by Simon, there would not be an intensified and more general protest against the Commission if the scheme were simply dropped, and no method of associating Indians with this stage of the enquiry were adopted. You will understand, of course, that I am still awaiting Simon's views on the matter, for I fully recognise with you that initiation must come from him, and that we should not fetter a discretion which, as you say, from the nature of the case must be his.
From Viceroy, 13th March 1928.

Sir John Simon,—

I have to-day sent the following telegram to

I have discussed with my Council the question of nomination for the Central Committee to fill the Assembly gap. There appear to us to be three possible courses—first, to nominate at once, taking it for granted that the Assembly decision is final; second, to announce, as suggested by you, the intention of filling vacant seats by nomination if they are not filled by election by about 20th August; third, to make no announcement, but wait, without disclosing our position, with the determination, however, of nominating in August if elections have not been made.

2. We appreciate, of course, that the final decision between these three courses rests with you, but I was sure that before making up your minds you would like our views as fully as possible, and we therefore discussed at some length what may be a critical decision. We are all of the opinion that the second course is decidedly inadvisable. The Indian politician is always on the look-out for a threat and resents it exceedingly. The action suggested would, we feel, arouse indignation and make it a good deal more difficult to get elected Committees in doubtful provinces. There would be talk about their self-respect and so on. We anticipate, in fact, effects the opposite of those which you had in mind. Further, as I said in my letter dated 10th March, an agitation against the whole idea of nomination might in the interval be worked up which would embarrass us in getting suitable nominees when the time came.

3. As between the first and the third course it was recognized that there are strong arguments on both sides. In favour of first it is urged that there is little to be gained by waiting, that there is small prospect of Assembly changing its mind and a considerable chance that in any case Patel will not allow a motion for election, in which event we may be made to look foolish; that on the other hand, setting up of a Central Committee now would consolidate opinion in favour of Commission and convince waverers that the Commission was going through with its task; and, finally, that if Committee were appointed now, it would be able to prepare itself for its task and play a more important part than if it were appointed only in August. All this is, of course, dependent on our getting, by the combined process of election from Council of State and nomination for the remainder, a really good and representative Committee. We think we could secure this.

4. In favour of the third course, it is urged that the nomination of a Committee now means a final break with the majority of the Hindu politicians and that they will be spurred on to intensify the agitation against the Commission; that on the other hand, if the situation is left alone, there are good hopes that it will improve; that in the provinces opinion is already beginning to move more favourably towards the Commission, and that, even if we do not eventually secure an elected Central Committee, there are good prospects of getting elected Committees in most provinces; but on the other hand, if action is now taken to nominate part of Central Committee, the provincial situation will be prejudiced, opinion will harden, candidates disappointed of nomination will be vehement in attack, and thus what may be the beginning of a more favourable swing of opinion will be arrested, and we may not be able to secure elected Committees in most provinces.

5. The question between the first and third courses depends on the estimate one makes of the reaction on public opinion; whether, on the one hand, it would consolidate and steady opinion, or, on the other hand, irritate and influence it, or, viewed from a rather different aspect, whether it is dangerous to leave the situation fluid for the next four months as producing uncertainty and an impression that concessions can be extracted, or whether, on the contrary, such fluidity is desirable as enabling us to take advantage of any favourable turn in the situation, Indian politics being subject to kaleidoscopic changes.

Most of us, including my three Indian colleagues, feel strongly that the third course is better, and that it is wiser to wait, not playing our cards before it is necessary, and leaving ourselves free to take advantage of any favourable developments. As you know, I had consulted the Governors about the probable reactions in their provinces. I have so far heard from live of them. Auchterlonie is definitely in favour of giving the Assembly another chance in August. Butler is less definite, but sees advantages in keeping the question of Committees open for the present. Stephenson, on the other hand, would be unwilling to risk another rebuff at the hands of the
Assembly, which he thinks would strengthen the opposition, and reports that his
Ministers are impressed with the advantages of getting a Central Committee appointed
now. This I gather to be his view from the provincial aspect. From the point of
view of all-India politics, he inclines to leave the door open and get in as many
parties as possible in August. Leslie Wilson is in favour of waiting till August. He
thinks the Assembly might reconsider its decision, and that it would be infinitely
preferable for an elected Committee to work with the Commission rather than
nominated one. Further, he thinks that immediate constitution of the Committee by
nomination might determine the views of many of his Legislative Council, who are at
present wavering, to take up attitude against electing a Committee. Innes, on the
other hand, advises against giving the Assembly another chance. He does not like
the attitude of pleading with Assembly and the risk of another rebuff. He also
emphasises the point, which we recognise, that a better Committee could be obtained
by nomination than by election. His suggestion for action is to announce the decision
about the Central Committee now, and get the Council of State to elect its members
before the end of the session, and then take time in selecting the remaining members;
finally assembling the Committee in June or July when material is available. He
thinks that if a little time were taken in selecting members, it would be found that
there was a great competition for nomination. It must be remembered that in present
circumstances India can rely upon the Burma Council to stand firm for co-operation.
I had some conversation with Hailey, who I gathered was not in favour of appointing
a Central Committee now, but you might, perhaps, have an opportunity of ascertaining
his mind more definitely.

6. I have hitherto confined myself to considering the question of the Central
Committee. We are all agreed that it would be premature either to nominate, or to
announce an intention of nominating, Provincial Committees. Of course, the action
taken in regard to a Central Committee would be a clear indication of what might
eventually happen in the provinces, but we would not advise anything being either
said or done at this stage about nomination in connection with them. Some of us
think that the provinces would resent what they would take as a threat to themselves,
and it would be difficult to justify such action in the provinces if we took action
about the Central Committee, and that this is therefore a further argument against
nominating for the Central Committee now. Others think that it is reasonable and
natural to distinguish between Central and the Provincial situation. The formation
of a Central Committee has already been advanced in a certain stage by the action of
the Council of State. Moreover, it may be argued that the Central Committee would
be useful through the summer in acting as a focus for constructive opinion and
a rallying point for those who are disposed to co-operate. This no doubt applies
with greater force to Central than to Provincial Committees.

I have tried to state as fairly as I can the arguments on both sides that appear
to us of importance. The decision must necessarily turn principally on the anticipations
we may form of the effect of either course of action on Indian public opinion.
In this region prophecy is almost foolhardy. For myself, after reflecting on all pros
and cons as carefully as I can, I remain pretty clearly, as do the majority of my
colleagues, of my original view that I should wait till August before either announcing
or appointing.

Should you, however, come to a different conclusion and ask me or the Government
of India to produce you a Committee by nomination without waiting I should conceive
that it would be our duty to proceed as you desired. I should, I think, from my side
first feel bound to invite the Secretary of State's concurrence, inasmuch as a material
departure from the scheme contemplated in Parliament would be involved and, while
recognising your discretion, he has expressed himself clearly in favour of holding our
hand. These considerations I do not doubt would be equally or even more vividly
present to your mind.

I am sending a copy of this to the Secretary of State as I think it is important that
he should be kept in touch with the situation.

From Viceroy, 15th March 1928.

131 S. Private and personal. In continuation of my private and personal
telegram dated 13th March, No. 119 S. I have had a letter from Simon saying that
he quite appreciates force of our arguments against immediate announcement
regarding nomination, and I hope he will keep this matter over for discussion with
us in Delhi at the end of next week. In the meantime, there has been some talk of
possibility of Government nominating Committee, and a report has appeared to this
effect in the Press. I had anticipated that such reports were likely, as idea has often
been put forward by the supporters of the Commission, more particularly by those
who have been active in this sense in the Council of State, and it was probably
inevitable that the Government would sooner or later be credited with these
intentions. I have no reason at present to suspect any leakage in responsible
quarters. In any case I do not think that intelligent anticipations such as these will
do any harm.

From Secretary of State to Viceroy, 15th March 1928.

706. Private and personal. Your private and personal telegram dated 13th March,
No. 119 S. I am myself inclined to advise that no public announcement of any kind
should be made for the present. On balance of all considerations involved, I incline
to the conclusion that it would be better for Simon to leave India without any public
announcement committing us in relation to the future. I think that on return to this
country of himself and his colleagues we could discuss the whole situation without
any risk that we have missed any opportunity that will not return. I do not wish
to give these opinions a directory tone. But if Simon takes a different view I should
be glad to be consulted and perhaps to have the opportunity of making some
representation to him. Please congratulate him and his colleagues from me on the
success which seems to me in perspective to have attended his provincial travels, and
say that I am looking forward very much to welcoming him home.

From Viceroy, 15th March 1928.

137 S. Private and personal. Your private and personal telegram dated 15th
March. I am very glad to find you are in general agreement with my view. I fancy
Simon’s mind is now moving in the same direction. I have given him copy of your
telegram and shall be able to discuss with him here next week. Meanwhile, there is
a good deal of gossip about the general shaping of opinion which, for what it is
worth, is encouraging. The Punjab Council decisions will put heart into the Moslems
in the United Provinces, and when I saw Muddiman 10 days ago he was very hopeful
of getting their Council’s decisions by majority of one reversed in the next few
months. There seems quite a good chance of passing the election of the Committee
in Bengal, but not till August. Madras has got a Ministry which Goschen thinks
will stand, and I hear that the non-Brahmins will not oppose the Commission.
Leslie Wilson is hopeful about Bombay Council electing a Committee, but not till
July–August session. Assam is likely to elect at beginning of April. So, on the
whole, with a bit of luck, provincial situation may be improving, and it is the
provinces which are more and more going to prove the key of the main position.
I keep on hearing of Jinnah’s discomfort, Hindu Mahasabha has definitely
broken with him, and he is now seeing a good deal of the Punjab Moslem contingent.
I am told, on what I believe to be quite reliable authority, that he told them that he
was now proposing to stand out for communal electorates and separation of Sind
and rest of Moslem platform, and that they had said to him, why not come with us
also in regard to Commission. To this he had replied that he must think that over.
Some of those who have been engaged in these conversations definitely expect him
to come into line quite soon, but I find this very difficult to believe. Still he is very
uncomfortable.

From Viceroy, 15th March 1928.

145 S. Private and personal. In a letter to me dated 12th March, Simon raises
certain points of importance with which you should be made acquainted. I refer to
these in detail in paras. 3, 4 and 5 below. Matters dealt with in para. 5 and para. 4
seem clearly within Simon’s own competence, while that dealt with in para. 3, though
it has very intimate bearing on his general scheme and prospects of successful
co-operation with provinces is one which, in strict order of time, would arise only
when the Commission was functus officio, and which therefore concerns His Majesty’s
Government more directly.

2. Simon writes that at the Conference held on 11th March with Hailey and his
Members of the Executive Council and Ministers, it was represented that there was
strong feeling in the Punjab and other provinces that proposed Central Committee of
Indian Legislature would get larger opportunities for influencing the ultimate result
than was entirely fair to provinces. Simon thereupon made three proposals to the
Conference.
3. Firstly, in previous discussion of question of electing or nominating Committee of Provincial Council to sit with Commission, Hailey had stated that the most important question was whether such Committee would be allowed to submit report. Simon at the Conference said that if at the end of Commission’s sittings in any province, Provincial Committee wished to draw up its own view in a report and furnished this report to them in time, Commission would be glad to give report full consideration as one of the documents before them and, further, that they would in due course include such report in appendices which will be printed and presented to Parliament.

4. Secondly, Simon also stated at the Conference, that, after the Commission had been round the provinces, and before they finally left India, they would be glad to meet representatives from each Provincial Committee to hear their final views or confer with them on outstanding matters which seemed suitable to the Commission for treatment in this way.

5. Thirdly, Simon was pressed at the Conference to say whether a representative of each Provincial Legislature might have the right to attend before the Joint Select Committee of Parliament. He replied that this was outside the terms of reference to the Commission, but that the language used by the Prime Minister, the Secretary of State and the Viceroy, did not seem to exclude the possibility. Simon asks me, therefore, that you should be invited to clear up this point without delay. He suggests that the question might be asked in Parliament, by the Leader of the Opposition, whether it was proposed that the Joint Select Committee should have the views of the Provincial Legislatures as well as those of Central Legislature presented to it by the attendance of a representative from each Province. Simon would recommend that the reply should be in the affirmative.

6. In reply to Simon’s letter of the 12th March, I have sent him a telegram which is repeated for your information in my immediately succeeding telegram. As you will see, I propose that the Provincial Governors should first be asked for their views, and I will telegraph to you later when this has been done.

From Viceroy, 19th March 1928.

(Letter from Viceroy to Sir John Simon.)

146 S. Your letter dated 12th March, I fully agree with you as to the importance of doing whatever you can to uphold the importance of the Provincial Committees.

2. Of your three plans suggested, you have proposed satisfactory solutions both for question of reports of Provincial Committees and for final meeting with representatives of Provincial Committees. The only question is method by which they should be brought to notice of the Provincial Governments. I would prefer not to include these matters in correspondence which might be published regarding nomination, inasmuch as the attached nomination might smother the value of the concessions proposed to provincial sentiment. Moreover, if on consideration you decide to wait before making the announcement about nomination, this would hold back announcement about provincial concessions too long for provinces, who may be electing committees in course of next few months. Alternative and possibly more appropriate method might therefore be for suitable member of the Punjab Legislative Council (e.g. a minister or party leader like Raja Narendra Nath) to write to you asking for indication of the Commission’s intentions. This letter and your reply, if published, and if need be communicated to the Governors by myself, would be sufficient declaration to other provinces of your intentions.

3. The third point, namely, representation of the Provincial Legislatures at the deliberations of the Joint Select Committee, raises more difficult questions. The language used by Baldwin, Secretary of State and myself, to which you refer, seems to promise the Central Legislature rather a right of conferring with the Joint Select Committee than merely a right of attending before it. The answer which you propose to a possible question in Parliament avoids any definition of the capacity in which the Provincial representatives would attend when the Joint Select Committee sits. I think it would be useful if you would consult with Hailey, and obtain from him as explicitly as possible what he contemplates and what he considers likely to be satisfactory in the case of the Punjab. He should be able to say whether his representatives would be satisfied by a promise of the opportunity
merely of meeting the Joint Parliamentary Committee. In particular, I should value your joint opinion whether there should be any expressed differentiation between the respective roles of the Central and Provincial representatives; and if so, what? From the Central point of view, it is important that the role of the Central Committee should not appear to be whittled down to that of witnesses. In view of the language used in statements referred to, I am inclined to think, in any case, that there should be at least two, if not three, representatives from each Province. I do not think that one representative could possibly satisfy the Provinces as a whole.

4. On receiving your views, I would propose to obtain the views of the other Governors. Hailey's reply should give us useful basis for consulting them. I would then lay the position before the Secretary of State and say that we agree that it is desirable that the Provincial Legislatures should have the opportunity of thus meeting the Joint Select Committee.

5. I am repeating this telegram to Hailey, and I hope you will find opportunity for discussion with him in Lahore.

6. I am also repeating this telegram, for information, to Secretary of State, so that he may be apprised of the situation in advance of definitely approaching him.

From Viceroy, 24th March 1928.

162 S. Private and personal. My private and personal telegram of 17th March, No. 137 S. Statutory Commission. Stanley Jackson hopes that as no-confidence motion against his Ministers has been defeated it will be possible to take motion regarding co-operation with the Commission in the Legislative Council on the 28th March. I have warned him not to precipitate it unless he is confident of success. I understand that he does not mean to proceed to actual election of the Committee until August.

From Viceroy, 24th March 1928.

163 S. Private and personal. My private and personal telegram of 19th March, No. 146 S., para. 1. Simon has just got back from Punjab, and I had a long discussion with him last night. We are both strongly of opinion that the key of the position now is really the provinces, and that we should do whatever we properly can to assist provincial political opinion to move in the right direction.

2. We are also agreed that it is important that this should be done quickly. Present situation seems to be improving, and it would be advantageous, if possible, to clinch it where we may. Bengal is having their discussion on the Commission next week and Madras will probably have another early debate. If we can assist them to go right we shall be greatly weakening the whole boycott front.

3. Simon, therefore, proposes to address me on the three points which concern the provinces mentioned in my telegram No. 145 S. of 18th March. Of these you will, no doubt, agree that 1 and 2 are matters for his discretion and decision. The third stands in somewhat different category.

4. As to this, he proposes to use the following language in communication to me, which I here quote textually:

"There is a further point to which we wish to draw attention, though the decision regarding it does not fall within our own jurisdiction. The announcement made by yourself, the Prime Minister, and the Secretary of State on 8th November, of the intention to refer the proposals for the future government of India to a Joint Committee of both Houses, included the proposal that certain Indian delegations would have the opportunity of appearing before the Joint Committee and putting forward their views. So far as the Indian Central Legislature is concerned this opportunity is explicitly provided by the language of your statement, but there was also a general reference to the views of other bodies being presented. What we are asked to ascertain is whether a small deputation selected by each Provincial Council would have a definite opportunity of presenting to the Joint Parliamentary Committee the view of the province in question on the proposals so far as those proposals affect that province. Our own impression is that the words used in the statement of 8th November implicitly cover the case, but, however that may be, we venture to suggest that, in view of the diversity and complexity of provincial problems, this is a reasonable request, and would urge that it might be explicitly granted. This would not, of course, in any way affect the position assigned to the Committee of the Central Legislature."
5. I do not anticipate that you will feel it necessary to take objection to this proposal, and there are substantial reasons, which seem to both Simon and myself sound in themselves, for adopting it.

There is undoubtedly, as you know very well, considerable jealousy in the provinces of the Central Legislature, and they are disposed to contrast unfavourably to themselves the opportunity afforded to the Central and Provincial Legislatures in later stages.

It is also, I think, true that the report itself must be to great extent in the nature of balanced verdict between Central and Provincial claims. Provinces feel, as does Simon himself, that it is not fair that when this balanced verdict is reviewed, only one side of the argument should be represented before the Joint Parliamentary Committee.

6. For these reasons I trust you will concur. Simon is anxious to get this point settled before he leaves next week, and we are both impressed with the desirability of getting his announcement out in time to assist Jackson in Bengal, probably on the 28th.

7. As Simon was in Lahore, I asked him to discuss in detail with Hailey, and the text I have quoted in para. 4 represents the result of long discussion between them. Hailey attaches great importance to it.

8. I had, as I told you, intended to consult the other Governors before asking your concurrence in Simon’s proposal. But as time is short, both from Simon’s point of view and from that of Bengal, and as I have no doubt that provinces would welcome the announcement, I have decided that it is unnecessary to do so.

From Viceroy, 25th March 1928.

167 S. Private and personal. Reference to para. 6 of my private and personal telegram No. 165 S., dated 24th March. Simon Commission. I understood from Stanley Jackson that discussion in Bengal Council would be on 28th. It appears possible that it may come on on Tuesday, 27th, and it is very important, therefore, that we should get your reply by Monday, 26th. I hope very much that you will be able to let me have an answer by then.

From Secretary of State to Viceroy, 26th March 1928.

815. Private and personal. Your private and personal telegrams dated 24th and 25th March. As I understand your proposal it is merely that Simon should, before debate in Bengal Council, write to you as in para. 4 of your telegram, and not that you should reply to him. Indeed, neither you nor anyone else is in a position to reply, since the Parliament whose Joint Select Committee will deal with eventual constitutional proposals is not yet in existence, and even if it were it would not be possible to bind Committee to take any particular course. If this is borne clearly in mind, and, if necessary, clearly stated, I see no objection to Simon writing to you as proposed, provided that you are satisfied, as you appear to be, that Indian political situation urgently requires it. Otherwise, I should greatly have preferred to avoid all further commitments at present. But great care must be taken by Jackson and all concerned to place no interpretation on Simon’s proposed letter, which goes beyond suggestion that Provinces should have opportunity of appearing before Joint Committee and putting forward their views on aspects of the proposals which affect them directly. In particular, nothing should be said as to whether Provincial representatives should have same role as Central representatives, nor should it be suggested that they will sit with or confer with Joint Parliamentary Committee. It is absolutely essential that this should be avoided, and it is partly because I foresee that great pressure will be put upon you and Simon for further definition that I should prefer that nothing more should be said at present. If, therefore, you are called upon to reply to his letter, I think you should confine yourself to saying that you agree with him that it would be in accordance with language used in your statement if Joint Parliamentary Committee were to invite provincial delegations to appear and present their views.

After full discussion with me and the members of my Council, Simon has decided to omit from his letter to me all reference to the possibility of Provincial representatives being invited by the Joint Select Committee to put their views before them. We can, if need be, return to this proposal later.

2. Simon has therefore addressed letter to me containing only the two points mentioned in para. 3 and para. 1 of my telegram No. 145 S., dated 18th March. I propose simply to reply that I have taken note of his proposals, and will take steps to bring them to the notice of the Local Governments and their Legislative Councils.

3. The expected motion in the Bengal Council, referred to in my telegram 167 S., dated 25th March, was withdrawn yesterday. I have not yet heard the full reasons, but am told that several of the Mohammedan members had left Calcutta for the Id celebrations, and that they had not received what they considered appropriate intimation of course proposed by the Leader of the House. They are very tiresome people, for approval by Bengal would have been useful at this moment. But I am assured that the Council will pass the motion all right next session.